

## **Urgent Update: Planning Committee 19 October 2023**

### **Item 19 Pages 139-172**

#### **Len House, Mill Street, Maidstone**

#### **APPLICATIONS: (A) 23/500769/LBC and (B) 23/500773/FULL**

#### **Applicant**

The applicant has noted some errors in drawing numbers in the conditions, suggests deletion of the condition referring to any boardwalk/decking because this is proposed to be removed in its entirety and also suggested minor rewording of conditions to better match between the 2 applications and to allow for potential phased discharge of other conditions.

They have requested revisions to the suggested Head of Terms in the S106 legal agreement:

- a) Delete the deculverting of the River Len on the application site as they consider it is not relevant to the s73 application being determined. (They also wish for any suggested conditions or informatives to be amended to omit any reference to deculverting or daylighting of the River Len).
- b) to clarify that the internal street will be open to the public during business hours only
- c) The wish to delete the requirement in regard of communal open space on the basis they have provided compensatory internal amenity space at first floor level

#### **Discussion**

The suggested corrections and rewording of conditions are acceptable except with regard to the deculverting of the River Len. The removal of that matter from the s106 legal agreement is not agreed.

As detailed in the main agenda report, the deculverting was expressly requested by Members when the parent planning permission was being determined. The Unilateral Undertaking is a fundamental part and parcel of the original planning permission and it is necessary to ensure the obligations related to it are carried forward to what will effectively be a new planning permission. Due to the passage of time, there need to be realistic new timescales and minor revisions to the clauses to ensure the works are practically implementable.

In addition, it is the case that the deculverting does also relate to the detail of the s73 application. The application significantly varies external landscaping/public realm by the deletion of the boardwalk and the daylighting the River Len needs to be considered in that context. There is also a relationship between the deculverting and the significant reduction in sedum roofs in terms of overall drainage strategy for the site.

The suggested Head of Term for communal open space on the wider site redevelopment (ie quantity and accessibility) is necessary to ensure that planning policies that related to open amenity space when the original application was considered continue to be applied consistently. The indoor lounge and gym are not full compensation for outdoor amenity space. The original planning permission showed that the open space for the

overall development would primarily be on the new build part of the scheme. It is essential that long term access rights to that communal outdoor open space on the wider site be secured for future residents of the Len House conversion.

The suggestion to revise the internal street public use to aligning with hours of business is pragmatic and is acceptable.

For the avoidance of doubt, it is recommended that the s106 agreement includes a revocation of the existing Unilateral Undertaking.

## **AMENDED RECOMMENDATION**

### **(A) 23/500769/LBC**

#### **Amend Conditions**

Correct drawing numbers in conditions as follows  
20.061-ONA-00-EL-DR-A-1410-S4 Rev P04  
20.061-ONA-00-EL-DR-A-1510-S1-P07

Conditions 2) and 3) combined as follows and subsequent conditions renumbered.

2) The approved works to Len House shall be constructed using the materials approved under 21/500608/SUB with the exception of the glazing to commercial units 3.1, 3.2, 3.3, 04, the residents' gym and residents' lounge for which constructional details at a scale of not less than 1:20 shall be submitted for the approval of the Local Planning Authority within 3 months of this consent. The approved materials shall be installed as approved and retained thereafter.

Reason: To ensure a satisfactory appearance to the development and to protect the character and appearance of the Listed Building.

Condition 10) amended as follows and renumbered as necessary

10) The full set of record photographs of the existing building submitted under 21/500608/SUB shall be made available to Kent County Council's Historic Environment Record within 2 months of this decision. Within 3 months of first use, heritage interpretation area(s) shall be installed in accordance with details that have been submitted to and approved by the Local Planning Authority.

Reason: To ensure that the heritage benefits associated with archiving the building's history are secured.

### **(B) 23/500773/FULL**

#### **Amend Head of Terms:**

- Culvert – Within 1 month of consent to grant both a licence to MBC to carry out site investigation works and payment of Culvert contribution of £80,000 index linked from 30 September 2020; and within 6 months of consent to transfer defined "culvert land" at nil cost to MBC; grant access rights by MBC to implement any de-culverting works.
- Securing public use of the throughfare "internal street" during business hours

- Replacement temporary car parking spaces (22 no.) pending redevelopment of the remainder of the site and long term (54 no.) car parking spaces within any scheme for redevelopment of the wider application site.
- To compensate for the net loss of roof terraces at Len House, any revised scheme for new build redevelopment will be required to include the provision of communal open space that provides a commensurate amount of space for the 2 elements with permanent rights of use by for residents of the apartments in Len House.
- Existing Unilateral Undertaking be revoked within the new s106 legal agreement

### **Amend Conditions**

Correct drawing numbers in conditions as follows

20.061-ONA-00-EL-DR-A-1410-S4 Rev P04

20.061-ONA-00-EL-DR-A-1510-S1-P07

20.061-1500-S1 Rev P08

Conditions amended as follows:

4) A final report detailing all archaeological results and finds resulting from the approved scheme of archaeological work relevant to that stage of the development being occupied shall be submitted to and approved by the Local Planning Authority.

- Prior to first occupation of any dwelling following the works to convert Len House;
- Prior to first occupation of any dwelling within the new build apartment blocks.

Reason: In the interests of recording any below ground structures or finds and to inform KCC Heritage's archives.

5) The risks associated with contamination with the conversion of Len House shall accord with the scheme approved under 21/502283/SUB. The new build elements of the development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved by the Local Planning Authority:

a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

b) A site investigation, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

Reason: In the interests of protecting the health of future occupants from any below ground pollutants.

14) The works to Len House hereby approved shall not commence above existing roof level until details of the scheme of treatment of the existing roof and the new penthouse roof have been submitted to and approved by the Local Planning Authority. The submitted scheme shall include details of the design, materials, specification and management plans for any roof level sedum roof.

Reason: In the interests of the character and appearance of the locality.

Condition 30) deleted and subsequent conditions renumbered as necessary

Conditions amended as follows:

32) Prior to works to Len House commencing above existing roof level, a lighting strategy of the buildings and public areas shall be submitted for approval to the Local Planning Authority. These details shall include measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors, including the Mill Pond and River Len if deculverting is implemented. The development shall thereafter be carried out in accordance with the subsequently approved details prior to first use/occupation and retained thereafter.

Reason: In the interest of visual amenity, heritage sensitivity and ecology.

36) Cooking or any other activity undertaken on the premises that generates fumes and/or odours shall not take place until there has been prior installation of equipment, plant or process for the extraction and treatment of fumes and/or odours generated in accordance with details that have been submitted to and approved by the Local Planning Authority. Scheme(s) shall be designed in accordance with the EMAQ Publication Control of Odour and Noise from Commercial Kitchen Exhaust Systems 2018 and should typically include a grease filter, pre-filter and activated carbon treatment, together with high level fume dispersion. Any installed scheme shall thereafter be operated and retained in compliance with the approved scheme and maintained to the original specification.

Reason: To safeguard the amenities of the surrounding area.