

**Additional Urgent Update: Planning Committee 19 October 2023 (adjourned to 26 October 2023)**

**Item 19 Pages 139-172**

**Len House, Mill Street, Maidstone**

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

The applicants have sent a letter addressed to the Director of Regeneration and Place which, inter alia, refutes the ability of the local planning authority to enter into a s106 legal agreement for s73 applications with new and revised terms relating to the original s106 Unilateral Undertaking (ie the culvert works). The applicant states that the suggested Heads of Terms are not workable and compromise the development.

Advice from Mid Kent Legal Services was taken prior to drafting the Heads of Terms in the committee report and the approach of officers in making their recommendation on a s106 legal agreement was endorsed and considered to be consistent with case law.

However, following discussions with the Director concerning the financial precariousness of town centre sites in the current economic climate, including Len House, which is of strategic importance to the Council and its emerging Town Centre Strategy, it is considered reasonable to amend and clarify the s106 Heads as follows:

- Culvert – Within 6 months of consent to grant both a licence to MBC to carry out site investigation works and make payment of Culvert contribution of £80,000; within 15 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 daytime hours
- Replacement of internal parking spaces with 22 external car parking spaces for the sole use by residents of apartments in Len House in accordance with drawing 20.061-ONA-00-00-DR-A-1002, pending redevelopment of the wider site.
- In any redevelopment of the remainder of the site, there shall be permanent provision of a minimum of 54 car parking spaces accessible to the residents of apartments in Len House to ensure a permanent parking ratio reflecting that approved in the original planning permission.
- Any revised scheme for redevelopment of the wider site will be required to include communal Open Space that provides a commensurate amount of Open Space for the whole site, compensating for the area of lost roof terraces in addition to matching the quantity of Open Space approved in the original planning permission. The Open Space in the wider site redevelopment shall have permanent rights of use by for residents of the apartments in Len House.