

# Release of S106 collected under planning application 16/504331 Union House

For Cabinet Member for Planning and Housing

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## Summary

- Lead Member:** Cllr Hugo Pound – Portfolio Holder for Housing and Planning
- Lead Director:** Lee Colyer – Director of Finance, Policy and Development (S151 Officer)
- Head of Service:** Carlos Hone – Head of Planning
- Report Author:** David Scully – Landscape and Biodiversity Officer
- Classification:** Public document (non-exempt)
- Wards Affected:** Rusthall, Pantiles and St Mark’s, Culverden and Broadwater.

Approval Timetable	
Cabinet Member	19 January 2023
Report Published	20 January 2023
Decision due not before	30 January 2023

## Recommendations

Officer / Committee recommendations as supported by the Portfolio Holder:

1. That the release developer contributions to the amount of £9,851.27 to the Commons Conservators for the purpose of providing mitigation of recreational pressures on the common adjacent to the site specifically towards footpath and associated habitat enhancements in the racecourse area of the common collected as a developer contribution pursuant to the planning agreement and variation thereto completed in respect of planning permission 16/504331 Union House and 17/03715/FULL.

# 1. Introduction and Background

- 1.1 This report relates to the planning application for Union House, planning reference 16/504331: “Demolition of existing building and redevelopment of the site to provide 127 new residential apartments, alongside circa 850 sqm of Class A1 / A3 / A4 (Retail, Restaurants and Cafes, Drinking Establishments), Class D1 / D2 (Community) and Class B1 Office floorspace, with associated new public square, water feature, public car parking and residents car/cycle parking.”
- 1.2 Development on the site will result in additional recreational pressure on Tunbridge Wells Common as a result of the new residents visiting the common.
- 1.3 The S106 provides for the sum of £9,851.27 “Towards the mitigation of recreational pressures on the common adjacent to the site specifically towards footpath and associated habitat enhancements in the racecourse area of the common”.
- 1.4 As explained in the committee report (para 10.121) the site lies adjacent to the non-statutory wildlife sites at Rusthall Common and Tunbridge Wells Commons which are subject to significant public pressures requiring intensive management. It went on to explain “as with other major residential developments in close proximity to the Commons (for example the former Kent and Sussex Hospital site) that have the potential to add to visitor pressures, it would be appropriate for the development to make a financial contribution through the Section 106 Agreement to mitigate this impact”.
- 1.5 During consideration of the application a request for such a contribution was received from the Commons Conservators and agreed with the Council and applicant.

- 1.6 The contribution forms part of the package of Section 106 contributions and is defined in the S106 agreement as a sum “towards the mitigation of recreational pressures on the common adjacent to the site specifically towards footpath and associated habitat enhancements in the racecourse area of the common”

## **2. Options considered**

- 2.1 Option 1: Do nothing - the money will have to be repaid and consequently no mitigation will take place on the common.
- 2.2 Option 2: Agree a scheme with the Commons Conservators that accords with the s106 agreement and the decision of the Planning Committee.
- 2.3 Option 3: Other options include seeking alternative locations for green space improvements in the town close to the site. No other options are currently available and such a scheme might not accord with the terms of the s106 or the decision of the Planning Committee.

## **3. Preferred Option and Reason**

- 3.1 The preferred option is Option 2, “agree a scheme with the Commons Conservators” for mitigation works on the common.
- 3.2 This option is favourable due to its compliance with the S106 and Committee Report and because it can be implemented and thereby ensure mitigation for the effects of the development. The commons conservators have provided a detailed quotation for the works from a reputable company that is in accordance with the s106 agreement.

## **4. Consultation on Options**

- 4.1 The planning application to which the sum relates was the subject of public consultation and comment and was resolved by Planning Committee.

## **5. Recommendation**

- 5.1 The recommendation to the Cabinet Member is to release developer contributions to the amount of £9,851.27 to the Commons Conservators for the purpose of providing mitigation of recreational pressures on the common adjacent to the site specifically towards footpath and associated habitat enhancements in the racecourse area of the common collected as a developer contribution form planning permission 16/504331 Union House.

## **6. Implementation**

- 6.1 The payment will be made to the Common Conservators and the Landscape and Biodiversity Officer will monitor progress to ensure the compliance with the s106 agreement.

## **7. Appendices and Background Documents**

Appendices:

- Appendix A: proposed restoration of drainage system on TW Common
- Appendix B: Plan of Works
- Appendix C: Quotation for works

## **8. Cross Cutting Issues**

### **A. Legal (including the Human Rights Act)**

Planning obligation agreements provide a mechanism for collecting contributions from developers through the planning process. Such contributions may only be used for the purpose specified in the agreement.

Any release of funds should be subject to the conditions set out in the relevant planning agreement being met in full.

Any necessary agreements or contracts entered into on release of the contributions must be in accordance with the Council's Contract Procedure Rules and should be in a form approved by the Head of the Mid Kent Legal Partnership

There are no issues regarding the Human Rights Act.

Tracey Wagstaff  
Senior Planning Lawyer MKLS  
11/01/2023

### **B. Finance and Other Resources**

No financial issues

Jane Fineman  
Head of Finance, Procurement & Parking  
18/01/2023

### **C. Staffing**

No Implications  
David Scully  
Landscape and Biodiversity Officer  
19/01/2023

## **D. Risk Management**

No Implications

David Scully

Landscape and Biodiversity Officer

19/01/2023

## **E. Environment (inc. Biodiversity) and Sustainability**

The proposal will help with the proper management of an important wildlife site.

David Scully

Landscape and Biodiversity Officer

19/01/2023

## **F. Community Safety**

No Implications

David Scully

Landscape and Biodiversity Officer

19/01/2023

## **G. Equalities**

No Implications

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Landscape and Biodiversity Officer

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## **H. Data Protection**

No Implications

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## **I. Health and Safety**

No Implications

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19/01/2023

## **J. Health and Wellbeing**

No Implications

David Scully

Landscape and Biodiversity Officer

19/01/2023