

Agenda Item A6	Committee Date 23 July 2018	Application Number 18/00588/FUL
Application Site 85-89 Penny Street Lancaster Lancashire LA1 1XN		Proposal Demolition of existing buildings and erection of a 6-storey building comprising use classes A1, A2 and/or A3 at lower ground floor and student accommodation above comprising 58 en-suite bedrooms within seven cluster flats and eight studio apartments and the formation of an enclosed external courtyard with landscaping and refuse enclosure
Name of Applicant Mr Bargh		Name of Agent Mr Sean Smith
Decision Target Date 10 August 2018		Reason For Delay N/A
Case Officer		Mrs Jennifer Rehman
Departure		No
Summary of Recommendation		Approval

Procedural Matter

In preparation of reporting this application, the Planning and Highway Regulatory Committee conducted a site visit on Monday 18 June 2018.

1.0 The Site and its Surroundings

- 1.1 The site that is the subject of this application lies within the defined city centre and includes 87-89 Penny Street, currently known as the Apothecary public house, and 85 Penny Street formerly occupied by Swinton Insurance at ground floor level. The upper floor of 85 Penny Street is in residential use (student accommodation). Both buildings are two storeys in height but of different architectural styles and periods. A small yard area exists where the reuse area is located with an informal passage separating the development site to the neighbouring property (83 Penny Street).
- 1.2 The site is located on one of the principal corridors within the Lancaster Conservation Area. To the south of the site St Thomas's Church occupies an elevated position within the street. This is a grade II listed building. Immediately opposite the site and adjacent there are a number of 'positive buildings' identified in the Conservation Area appraisal which are considered non-designated heritage assets. The historic buildings within the Conservation Area are predominately 2-3 storeys with domes and spires of public and ecclesiastical buildings puncturing the skyline.
- 1.3 The site occupies a prominent corner position within a short terrace of development. It has a relatively short frontage to Penny Street extending deeper along Marton Street and crudely has a rectangular plan form covering approximately 530 square metres of brownfield land. The topography of the area rises in a general north-south direction but at the proposed site there is also a steep fall from the back of the site on Marton Street to the lowest part on Penny Street. The fall is approximately 2 metres. The existing buildings are two storey in scale and of contrasting design. The Apothecary building is architecturally poor but is low in scale. The adjoining terrace is of traditional form and scale but its fenestration has been significantly altered and no longer positively

contributes to the character and appearance of the area. The buildings surrounding the site vary in scale and design with a mixture of Georgian townhouses with ground floor shopfronts, grander Victorian scale buildings and some modern additions to the townscape. The scale and height of buildings notably increase towards the police station and Thurnham Street and the southern end of Penny Street. At the opposite end of the terrace is Cityblock's first student accommodation building. This is a five storey building on the corner of George Street and Penny Street.

- 1.4 Surrounding land uses are reflective of the site's position within the primary shopping area and secondary retail frontage areas. Ground floor accommodation in surrounding buildings is predominately commercial and includes (not exclusive) hairdressers, nail studios, cafes, some financial services/estate agents and takeaways. Most of these buildings have ancillary office or residential uses above the ground floor uses. There is a public house to the south on the site on the opposite side of Penny Street, St Thomas's church and church hall on Marton Street and immediately east of the site the city's main police station.
- 1.5 The site has very good accessibility for pedestrians and cyclists and is well connected to public transport. There are bus stops on King Street, George Street and Common Garden Street with regularly services running between the city centre and the university campuses. The main bus station is around 500m north of the site and the train station circa 650m to the north west. There are also a number of designated cycle routes between the city centre and the two universities. Given the city centre location, access to a range of local convenience stores, doctors surgeries, post offices and other retail/leisure services is very good.
- 1.6 The site is not located within a flood risk area and is not affected by any other environmental designation, such as nature conservation sites. There are no protected trees to be affected by the development. Whilst the site lies outside the defined Air Quality Management Area it is within its management zone.

2.0 The Proposal

- 2.1 The applicant seeks full planning permission for the demolition of the existing buildings and erection of a mixed use six storey building. The building shall comprise 3,450 square feet of A1, A2 and A3 space to the lower ground floor with student accommodation above comprising 58 en-suite bedrooms within seven cluster flats and eight studio apartments (66 bedrooms in total). The cluster flats range in size from five to ten bedrooms per flat.
- 2.2 The layout is broken down as follows:
- Lower ground floor comprises A1/A2/A3 use with main entrance off Penny Street incorporating separate access and passage to the north side of the building to formalise access to the adjoining property and refuse area for the commercial space.
 - Upper ground floor comprises the main entrance to the student accommodation off Marton Street with office space, cycle storage, laundry, plant room and a nine-bedroom cluster flat. Access to the landscaped courtyard and refuse areas is available off this floor. A passageway is also incorporated to the east side of the building to enable suitable access for refuse collection.
 - Levels 1 and 2 comprises one ten-bedroom and one seven-bedroom cluster flat per floor.
 - Level 3 comprises one ten-bedroom and one five-bedroom cluster flat.
 - Level 4 comprises 8 studio apartments.

Access to all floors is via a central stairwell and lift shaft. Externally a landscaped courtyard is proposed to provide amenity space to complement the student accommodation.

- 2.3 The design of the building effectively creates two distinct building forms as it responds to the contrasting building characters on Penny Street and Marton Street. The front part of the building facing Penny Street is four storeys high extending to five storeys including the roof level. This element will be finished in an ashlar stone. The rear part, which forms the main building block on Marton Street, is five storeys high extending to 6 storeys with the roof level included. The height of

the building at the back of the site on Marton Street (including the top floor) is approximately 15 metres. This increases to circa 16 metres towards the front of the main building block on Marton Street. At the corner of the proposed building on Penny Street, at its lowest point, the building is approximately 11.5m high.

- 2.4 The building shall be finished in high quality materials including natural ashlar and split-faced stone, white render and a bronze effect cladding to the upper floor. Full height windows are proposed to all the accommodation, which shall be painted powder coated aluminium windows with deep recesses and feature side panels to the bedrooms facing Penny Street and Marton Street. Glazed curtain walling to the living rooms is proposed with an external horizontal louvre system forming a key architectural feature to the Marton Street elevation. A small landscaped amenity courtyard is proposed to the north side of the building. Cycle provision is proposed internally within the main site entrance. Internal and external refuse storage is proposed for both the commercial and residential elements of the proposal.

3.0 Site History

- 3.1 The applicant has undertaken pre-application consultation with the local planning authority about this proposal. The applicant sought level 3 advice which involves a Member Engagement Forum where ward Councillors, representatives from Planning Committee and a representative from the Civic Society (or Parish Council) can attend and participate in discussions. The pre-application process has been extensive and generally positive, with the developer responding to initial concerns over the scale of the development early in the process. Except for this pre-application enquiry, there is no other relevant planning history to consider as part of the determination of this proposal.

4.0 Consultation Responses

- 4.1 The following responses have been received from statutory and non-statutory consultees:

Consultee	Response
County Highways	No objections subject to conditions to control traffic management to ensure existing on-street parking is not compromised during construction, the provision of a construction method statement and provision of cycle storage.
Environmental Health Service	No objections subject to the imposition of conditions relating to land contamination, noise mitigation as set out in the submitted report, use conditions controlling the commercial ground floor operations to that applied for, hours of use conditions together with conditions securing details of any necessary ventilation/extraction systems, hours of construction condition and scheme to prevent and control dust emissions during construction. The Air Quality Officer has indicated that cycle storage should be increased
Lancaster Civic Society	No objections to the principle of the demolition of the existing building but raise concerns over the height of the development and recommend that it should be a storey lower.
Conservation Team	The conservation team raised an initial objection to the proposal claiming the development appeared to be of a greater scale to that considered acceptable at the pre-application stage. The increase in scale was considered to have a harmful impact on the setting of the adjacent designated and non-designated heritage assets and the significance of the Conservation Area. The conservation team also raised concerns over the excessive use of split face natural stone to the building façade. The applicant has responded to the concerns raised with the submission of subtle amendments to the scale of the development involving a slight reduction to the overall height to the building, changes to the roof level to create a more subservient design and an increase in the use of ashlar stone to the Penny Street elevations. The Conservation team no longer objects to the development. They recognise that whilst there will be a degree of harm caused by the height of this building, this has been mitigated and outweighed by the innovative design and complementary use of natural materials which are sympathetic to the surrounding built heritage.

	Several conditions are recommended including details of the external facing materials, roofing details, window/door, louvres, security screens and gates, external lighting, signage, flues and vents and boundary treatments.
Lancashire Archaeology Advisory Service (LAAS)	No objections to the demolition of the buildings subject to a programme of archaeological work in accordance with a written scheme of investigation (WSI) with formal archaeological evaluation carried out post demolition. During the determination of this application an initial WSI has been submitted and approved by LAAS. The development must be carried out in accordance with this WSI requiring a further WSI for the archaeological evaluation and final reporting. An appropriately worded condition should be imposed in the event permission is granted. LAAS had commented on the initial desk-based assessment and noted some inaccuracies and incorrect assumptions of the site's historical interests. LAAS comment that they do not intend to comment on design but suggests that the assessment downplays the impact of the size of the new building which could easily be seen as too tall and overpowering to the retained 83 Penny Street and lower buildings on the opposite side of Penny Street.
Historic England	No observations – under relevant statutory provisions they do not need to comment on the proposal.
Lancaster University (LUSU)	Comments received indicating that the students occupying the adjacent flat should not be negatively affected by the development during their 2018/2019 term.
University of Cumbria (Accommodation Officer)	No comments have been received within the statutory consultation period or at the time of compiling this report. If comments are submitted a verbal update will be provided.
Lancaster and District Chamber of Commerce	No objection. The Chamber offers full support for the development; is grateful for the developers continued investment in the city recognising such development increases footfall and spend and urges the City Council to grant planning permission.
United Utilities	No comments have been received within the statutory consultation period or at the time of compiling this report. If comments are submitted a verbal update will be provided.
Lead Local Flood Authority	No comments have been received within the statutory consultation period or at the time of compiling this report. If comments are submitted a verbal update will be provided.
Lancashire Fire Service	No objections – standard advice relating to Part B5 of Building Regulation's concerning access and facilities for the Fire Service.
Lancashire Constabulary	No objections but recommends the development is designed to Secured by Design standards and recommends a number of measures to reduce the risk and fear of crime including window/door specifications, installation of CCTV and installation of appropriate lighting

5.0 Neighbour Representations

5.1 At the time of compiling this report, 3 letters of objection have been received. A summary of the main reasons for opposition are as follows:

- Need for student accommodation - indicating the city has enough accommodation for students;
- Loss of the existing bar or business;
- Heritage impacts - comments suggest that the conservation area should be conserved and not altered; the proposal fails to fit in with the 2 and 3 storey buildings on Penny Street; at 6 storeys high the development is completely inappropriate; precedent of other tall buildings on Penny Street should not be seen as a reason for allowing even taller buildings which already spoil the historic environment.

There have also been 4 letters of support received, including representations from Lancaster BID and St Thomas's Church. A summary of the main reasons for support are as follows:

- that the proposal is an excellent idea and will add vitality to a rather bland area of the city;
- the proposal will make use of empty units;
- added investment in the city should be supported;

- the design is tasteful and in keeping with the architectural landscape of the area, and;
- the church look forward to welcoming new students into their church.

6.0 Principal National and Development Plan Policies

- 6.1 Paragraph 12 and 14 – Presumption in favour of sustainable development
 Paragraph 17 – Core Principles
 Section 1 (paragraph 18-22) – Building a strong, competitive economy
 Paragraph 23 - Ensuring the vitality of town centres
 Section 4 (Paragraphs 29-41) – Promoting sustainable transport
 Paragraph 50 – Delivery a wide choice of high quality homes
 Paragraphs 56, 58, 60, 61, 64 – Good design
 Paragraph 69 – Promoting healthy communities
 Paragraph 123/124 – Noise/air quality
 Section 12 (paragraphs 128, 131 – 134) – Conserving and enhancing the historic environment
 Paragraph 141 – Recording information relating to the historic environment

6.2 Local Planning Policy Overview – Current Position

At the 20 December 2017 meeting of its Full Council, the local authority resolved to publish the following 2 Development Plan Documents (DPD) for submission to the Planning Inspectorate:

- (i) The Strategic Policies and Land Allocations DPD; and,
- (ii) A Review of the Development Management DPD.

This enables progress to be made on the preparation of a Local Plan for the Lancaster District. The DPDs were published on the 9 February for an 8 week consultation in preparation for submission to the Planning Inspectorate for independent Examination. If an Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council, potentially in late 2018.

The Strategic Policies and Land Allocations DPD will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2017, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan's preparation progresses through the stages described above.

The Review of the Development Management DPD updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making. Where any policies in the draft 'Review' document are different from those adopted in 2014, and those policies materially affect the consideration of the planning application, then these will be taken into account during decision-making, although again with limited weight. The weight attributed to the revised policies in the 'Review' will increase as the plan's preparation progresses through the stages described above.

6.3 Development Management DPD (DM DPD)

DM1 – Town Centre Development
 DM2 – Retail Frontages
 DM5 – The Evening and Night-time Economy
 DM20 – Enhancing Accessibility and Transport Linkages
 DM21 – Walking & Cycling
 DM22 – Parking Provision
 DM23 – Transport Efficient and Travel Plans
 DM31 – Development affecting Conservation Areas
 DM32 – Setting of Designated Heritage Assets
 DM34 – Archaeological features
 DM35 – Key Design Principles
 DM36 – Sustainable Design
 DM37 - Air Quality
 DM38 – Development and Flood Risk
 DM39 – Surface Water Run-Off and Sustainable Drainage
 DM46 – Accommodation for Students
 Appendix B – Car Parking Standards
 Appendix D – Purpose Built and Converted Shared Accommodation

6.4 Lancaster District Core Strategy (adopted July 2008) (CS)

SC1 – Sustainable Development
SC2- Urban Concentration
SC4 – Meeting the District's Housing Requirement
SC5 – Quality in Design

6.5 Other Material Considerations

National Planning Practice Guidance
Lancaster Conservation Appraisal (2013) and City Centre Character Area 3 and Dalton Square Character Area 4;
Planning Advice Note 4: Tall Buildings (Historic England, 2015);
The Setting of Heritage Assets, 2nd Ed, Planning Advice Note 3 (Historic England, 2017);
Noise Policy Statement for England

7.0 Comment and Analysis

7.1 The main considerations with the application are as follows;

- Principle of mixed use town centre uses/student accommodation scheme;
- Design considerations;
- Heritage considerations;
- Standard of accommodation and amenity considerations;
- Highway considerations;
- Biodiversity;
- Noise and air quality.

Principle of mixed use student accommodation

7.2 The site is located within the defined city centre boundary within the primary shopping area (PSA) as set out in the adopted DM DPD. DM1 of the DM DPD clearly states that proposals for town centre uses within the defined town centre boundary will be supported. It equally states that proposals for residential development within town centres will be considered favourably provided they are above ground floor level and do not restrict the maintenance of an active street frontage, particularly in designated retail frontages.

7.3 Penny Street forms the main north-south route through the primary shopping area and is largely pedestrianised. The proposed site is at the southern end of Penny Street just outside the pedestrianised area and therefore enjoys a secondary retail frontage allocation. This allocation offers greater flexibility in terms of the type of town centre use that could be accommodated at the lower ground floor level of the proposed building. Policy DM2 confirms that in secondary retail frontages any 'A' class use is considered acceptable. The applicant seeks permission for either A1 (retail), A2 (financial and professional services) or A3 (restaurant and cafes) uses within the lower ground floor commercial space of the development.

7.4 The existing building (87-89 Penny Street) previously operated as a bar and music venue. It is understood that the bar has now closed. The use of the existing building as a bar and music venue has its benefits and would support the city's evening economy. The Council acknowledges that evening activities provide a fundamental part of maintaining a strong and successful town extending vitality beyond normal working hours, making town centre more attractive places to live and work. However, there must be a careful balance made so that evening uses are complementary to other town centre and residential uses. Whilst the loss of a further bar/music venue from within the city could be judged a negative aspect of the proposal, given there are no explicit policies within the development plan which seek to protect and retain such uses, the amount of weight that can be afforded to this aspect of the proposal is limited.

7.5 Whilst the proposal results in the loss of one town centre use (bar and music venue) it proposes another type of town centre use as well as the student accommodation above. It is acknowledged that a retail use at ground floor will be quite different to an A3 use, particularly in relation to contributing to the evening economy, but nevertheless the proposal would still support and enhance the commercial offer in the city. The student accommodation aspect would also enhance the vitality

in the area through increased footfall and spending, all of which are considered benefits of the proposal.

7.6 Turning to the principle of student accommodation, the Council's housing policy states that student accommodation forms an important component of Lancaster's housing market and that their needs must be addressed through the overall housing strategy. The Council also recognises that the provision of student accommodation in the city centre can also help make a positive contribution to the mix of uses in the city centre to support its overall vitality. The proposed scheme is within the city centre boundary and therefore serves as an appropriate and sustainable location for student accommodation. Lancaster University and the University of Cumbria are both easily accessible from the centre via sustainable travel modes (cycling and bus services), which is an essential criterion when assessing student schemes.

7.7 Considering the above, there are no policy objections to the use of the lower ground floor of the building for either an A1, A2 or A3 use with residential development above. This proposal fully accords with the requirements of DM1 and DM2 of the DM DPD.

Design Considerations

7.8 One of the core land-use planning principles set out in the NPPF is always to secure high quality design. Planning policy at both the national and local level attaches great importance to the design of the built environment recognising that good design is a key aspect of sustainable development and place making. Both paragraph 58 of the NPPF and local planning policies SC5 of the CS and DM35 of the DM DPD stress the need for development to respond and reflect the identity and character of an area; have regard to local distinctiveness such as the scale, massing, appearance and use of materials of the surrounding built environment, and; for development to be visually attractive. Planning policy does not preclude innovation, so long as development positively contributes to a place and integrates new development into the built and historic environment sympathetically.

7.9 Before considering the merits of the design and appearance of the proposed building, it is worth noting that the existing buildings are not of architectural merit nor are they aesthetically pleasing. The Marton Street elevation is inactive and bland and does little to positively contribute to the character and appearance of the area. As a consequence, there are no objections to the loss of these buildings as clearly such will create an opportunity to significantly enhance the townscape character in this area

7.10 The scheme has been designed through consultation with Officers (and Members and the Civic Society through our level 3 pre-application service) and has therefore positively evolved over time with initial concerns over the scale, design and appearance of the development being addressed early. The initial proposal tabled was for a 7-storey building with several design features being heavily influenced by the applicant's Cityblock 4 development.

7.11 Whilst Officers consider the applicant's Cityblock 4 development a positive addition to the townscape, concerns were initially raised over the risk of standardising the developments which would not only detract from the high-quality design and uniqueness of the applicant's other development but would diminish the city centre's diverse and fortuitous townscape character. Further constraints that have influenced and challenged the design of the development have been the difference in levels due to the topography of the area and addressing and responding to contrasting built forms and characters between Penny Street and Marton Street. Penny Street is predominately low-rise (ranging between 1.5 and 3 storeys high in the immediate vicinity of the application site) whilst Marton Street (and Thurnham Street) accommodates grander scaled buildings, such as the police station and St Thomas's Church and church hall.

7.12 The applicant has sought to address these earlier concerns and has amended the proposal to better respond to the scale of surrounding buildings and has created a design which has its own identity and character to enable it to positively contribute to the city's diverse architectural interest. Whilst the building will be taller than the buildings immediately neighbouring it, the stepped massing of the building and the subservient roof top level will mitigate the height of the building.

7.13 With regards to the building design, the proposal takes strong references to the local vernacular with the fenestration supporting strong vertical alignments and repetitive patterns (reflective of historical fenestration). The proposed use of natural materials also supports the local character and

appearance of the area. The Penny Street elevation which forms the lowest part of the development at 4 storeys (rising to 5 storeys), shall be finished in a natural ashlar stone, which will return subtly around the side elevations. Along Marton Street the stone will switch to a softer split-face natural stone returning around the east elevation (facing the police complex).

- 7.14 The Marton Street elevation is long and as a block has a horizontal massing. To break this up a section of the elevation above the main student entrance will be glazed with a horizontal louvre system. This feature is a positive addition to the design of the scheme and helps reflect the verticality of the surrounding built form. The north elevation shall be finished in a white render to create a light and airy courtyard environment. This is considered acceptable given that this elevation will not be highly visible. Windows shall have a deep recesses and will be powder coated aluminium complemented by a cladded side panel. The upper floors shall be set back from the main walls and are proposed in a bronze effect cladding so as to blend with the darker tones of the roofscape and create the sense of a more light weight, subservient addition to the height of the building. Overall, the design has been well considered and will positively contribute to the built environment. On this basis, it is considered compliance with development plan policy SC5 of the Core Strategy and DM35 of the DM DPD and paragraphs 17 and 58 and 60 of the NPPF.

Heritage Considerations

- 7.15 The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage assets, great weight should be given to the asset's conservation. Similarly, the local planning authority in exercising its planning function should have regard to s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states *"in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*. Similarly, section 72 *"requires that in the exercise of planning duties special attention shall be paid to the desirability of preserving and enhancing the character or appearance of Conservation Areas"*. Paragraph 132 of the NPPF seeks to express the statutory presumption set out in s66(1) and s72 of the 1990 Act. How the presumption is applied is covered in the following paragraphs of the NPPF, though it is clear that the statutory presumption is to avoid harm. The exercise is still one of planning judgment, but it must be informed by the need to give significant weight to the desirability to preserve the heritage asset.
- 7.16 Paragraph 131 of the NPPF requires local planning authorities in determining planning applications to take account of the desirability of sustaining and enhancing the significance of heritage assets; the positive contribution that conservation of heritage assets can make to sustainable communities; and the desirability of new development making a positive contribution to local character and distinctiveness. It is accepted that great weight should be given to the asset's conservation, though this is clearly proportionate to the level of significance. This is reiterated by Policies DM31 and DM32 of the DM DPD, with Policy DM31 setting out that alterations and extensions within Conservation Areas will only be permitted where it has been demonstrated that:
- Proposals respect the character of the surrounding built form and its wider setting in terms of design, siting, scale, massing, height and the materials used; and,
 - Proposals will not result in the loss or alteration of features which contribute to the special character of the building and area; and,
 - Proposed uses are sympathetic and appropriate to the character of the existing building and will not result in any detrimental impact on the visual amenity and wider setting of the Conservation Area.
- 7.17 Policy DM32 relates to the setting of designated heritage assets which recognises that the significance of a heritage asset can be greatly affected by development that could occur within its setting. The application has been supported by a heritage assessment which despite some inaccuracies noted by LAAS, satisfactorily describes and assesses the historical environment and the significance of designated and non-designated heritage assets and provide an understanding of the potential impacts the development would have on the asset's significance. This is compliance with paragraph 128 of the NPPF.
- 7.18 The proposal is situated in Lancaster Conservation Area and will impact several designated and non-designated heritage assets. It is located within the City Centre Character Area. The Conservation Area was designated for its Roman and Medieval origins and the mixture of Georgian

townhouses with ground floor shopfronts and grander Victorian scale buildings with eclectic architectural revival styles. The use of natural stone is a significant feature of the area. The hilly topography also provides important views within and across the Conservation Area which supports and frames important Listed buildings. The proposed site is located in the heart of the city where there are a number of important civic buildings that punctuate the street form and feature in street vistas. The area is dominated by streets lined by active buildings of various ages reflecting the incremental changes over time. The fortuitous design of the buildings along Penny Street and its diversity adds to the significance of the Conservation Area. Development should not seek to diminish this character and should positively contribute to it.

- 7.19 The initial scheme presented to Officers at the pre-application scale was considered to have a significant adverse impact on the significance of designated heritage assets, particularly in relation to the setting of the adjacent church and the character and appearance of the Conservation Area. The initial scheme was seven storeys high and six storeys (in stone) on the Penny Street frontage. This had a significantly overbearing impact on the low-rise development of Penny Street. The initial design also took too many influences from the applicants other development at the top of Penny Street. A couple of iterations of the development evolved during the pre-application stage with a gradual lowering of the scale and massing of the development, together with alterations to the design and use of materials to ensure the building had its own identity, to resolve earlier heritage and design concerns raised by Officers. The scheme presented at the Member Engagement Forum was supported by those Members that took part in the discussions including a representative from the Civic Society.
- 7.20 The scheme presented has been reduced further during the determination of this application in order to better reflect the sketches submitted at the pre-application stage (mainly in relation to the visuals), and to enable the proposal to integrate more sympathetically with the surrounding built and historic environment. This is in response to the Civic Society's objection to the application and the initial comments from the Conservation Officer. The overall scale of the development (i.e. the number of floors) has not altered and therefore the development remains a tall building within the Conservation Area. Its stepped massing front to back has helped improve the relationship with the low-rise development opposite and the increased set back and re-design of the roof level helps align the building with the surrounding rooflines in views up and down Penny Street. In certain views the top floor of the building will project above the rooflines but the impact is not considered significant.
- 7.21 The most notable impacts of the development will be viewed looking west on Marton Street where the scale of the development appears rather overbearing in relation to the scale of the smaller buildings opposite the site on Penny Street. The impact is exacerbated due to the site topography as the smaller Penny Street buildings are at a lower elevation. Another uncomfortable relationship relates to the retained terraced building which will be nestled between the existing student accommodated block to the northern end of the terrace and the proposed development. This retained building is a traditional 2.5 storey stone under slate building, which is identified as a non-designated heritage asset. This building does not benefit from a particularly positive setting at present given the condition and appearance of the existing buildings. The development will improve the character and appearance of the terrace as a whole and therefore the setting of this retained building but the increase scale does have an adverse impact.
- 7.22 Whilst the redevelopment of the site is considered acceptable, policy DM31 of the DM DPD recognises that where proposals involve the loss of buildings within a Conservation Area, the redevelopment of the site should proceed immediately after. The reasoned justification for this approach is to avoid the risk of buildings being demolished and sites being boarded up for long periods of time resulting in harmful impacts to the character and appearance of the Conservation Area. In this case, it is contended that a boarded up site would be far more harmful to the significance of the Conservation Area than the buildings retained. Whilst the applicant has intentions to implement the consent if the development is approved, there may be circumstances outside the control of planning which prohibit the redevelopment of the site. Subsequently, if permission is granted a condition is recommended to ensure a building contract is in place for the redevelopment of the site before the buildings are demolished.
- 7.23 In conclusion, it is accepted that the proposed development will result in a change to the Conservation Area and the setting of adjacent heritage assets but this change, on balance, is not considered to cause significant harm. There will be a degree of harm caused by the height of the

building in certain views, but such has been partly mitigated by the innovative design and complementary use of natural materials which are sympathetic to the surrounding built environment. The Council's Conservation Officer no longer objects to the development (following the submission of amendments) and recommends a number of conditions to secure the development is constructed to a high quality. Members are advised that whilst the development is taller than the immediate buildings surrounding it (except for the police station), the scale, massing, design and appearance of the development will deliver a high quality building which will complement the diverse character and appearance of the Conservation Area. The development will revive this prominent corner site and create a more active frontage along Marton Street, which is currently very weak. This therefore has the benefit of improving the setting of the neighbouring Listed church despite the increase in scale of development. On balance, the development is considered compliant with national and local heritage related planning policy and can be supported on this basis.

7.24 Archaeology

The application has been supported by an archaeological desk-based assessment and a written scheme of investigation for building recording. Whilst Lancashire Archaeology Advisory Service (LAAS) comment on some inaccuracies and failings in the submission, they do not object to the development and specifically do not object to the demolition of the existing buildings. LAAS considers that the site has the potential for earlier buried remains to have survived possibly of Roman, Medieval and Post medieval dates and therefore recommends a written scheme for investigation (WSI) and appropriate post-demolition archaeological investigations to be conditional of any grant of planning permission. A WSI for the building recording of 85 Penny Street has already been submitted by the applicant following comments from LAAS. This has been agreed and accepted by LAAS and should be incorporated in an appropriately worded archaeology condition. Such a condition is considered reasonable and necessary given that the evidence available, which suggests that the site lies close to a significant Roman cremation cemetery which flanks Penny Street that is also known to form the line of a Roman road running between Preston and the Roman fort at Lancaster. This approach is compliant with paragraph 141 of the NPPF and policy DM34 of the DM DPD.

Standard of living Accommodation

7.25 The Development Management DPD contains adopted standards with respect to room sizes for both studios and cluster flats. The scheme as presented proposes 8 studio apartments on the top floor of the development. These studio rooms exceed the Council's standards in terms of space, outlook and natural light. The cluster flats range from 5 and 10 bedroom cluster. The standard is generally for these to have no more than 6 bedrooms. The applicant has developed previously in the City where similar arrangements have been provided for and therefore it would be reasonable to provide a more flexible approach to the policy standard in this regard.

7.26 The Council's adopted position is for bedrooms within cluster flats to be 11 sqm. The proposed bedrooms are between 12.5sqm and 14.8 sqm and have adequate outlook and natural light. Those bedrooms facing north will still benefit from a satisfactory form of outlook due to the floor levels which are generally above the height of the neighbouring building and are set away from the boundary by 5m. The only two bedrooms which conflict with the standards set out in DM46 and the associated appendices, relate to rooms 5 and 6 on the upper ground floor plan. These two rooms have their only windows directly onto the private landscaped courtyard, which will form a communal amenity space. Their outlook will be more pleasant than other rooms but the level of privacy will be reduced. The two rooms that don't strictly comply with our policy expectations would not render the whole development unacceptable. The communal living accommodation is proportionate to the size of the cluster flats and benefit from glazed curtain walling to provide an adequate standard of light and outlook. On balance and overall, the standard of accommodation is considered acceptable and can be supported.

7.27 The proposed development sits within an urban environment where street patterns and buildings forms heavily influences the nature, scale and position of new development. Planning policy requires planning to secure a good standard of amenity for all existing and future occupants of buildings and land. The scheme will secure a good standard of amenity for future residents. Whilst the site is surrounded by many town centre uses it is envisaged that the upper floors of surrounding development, mainly on Penny Street, could be in residential use. For new development policy requires interface distances to be 21m between habitable windows and 12m where habitable windows face blank walls or non-habitable windows. Due to the pattern and form of the existing built environment and the associated densities around the site these standards cannot be met.

Policy does account for this noting that these standards may not always be acceptable and regard should be given to site circumstances.

- 7.28 The interface distance across Penny Street is around 11m. The buildings immediate opposite the site are particularly low-rise between 1.5 and 2 storeys high. Therefore the erection of a significantly taller building opposite these smaller buildings will have some impact, mainly in terms of outlook and light. However, it is accepted that the interface distances cannot be increased because such would adversely affect the townscape qualities of the area. The submitted proposal seeks to resolve initial concerns about the impact on amenity (at the pre-application stage) by a reduction to the scale of the development towards the front of the site (Penny Street) and stepping the massing up Marton Street. This will not entirely remove the impacts but, on balance, will sufficiently mitigate the potential overbearing impacts of the development and would not render neighbouring properties unsuitable for residential occupation. A further negative aspect of the proposal is the impact the development would have on the neighbouring first floor flat (83 Penny Street), which is occupied also for student accommodation. The neighbouring property comprises a three-bedroom student flat with a small living space to the rear. A window over the bulkhead on the elevation facing the development site will be obscured by the development. This window provides some light to an open plan kitchen and living area. It is not the only window to this living space. The neighbouring land owner has confirmed they have no objection to the proposal and that there are works to be carried out on this property which seek to block the side window (under separate party wall negotiations) and install a good sized roof light to enable sufficient natural light to this accommodation. Whilst this is by no means ideal, given the neighbouring accommodation benefits from other windows facing away from redevelopment site and the adjacent land owner is in support of the proposal (and has separate agreements in place to secure an additional roof light) it is unlikely that this negative aspect of the proposal would outweigh the benefits of the scheme.

Highway Considerations

- 7.29 Due to the site's highly accessible location and the nature of the proposed use, the development once operational will not adversely affect the safe and efficient operation of the local highway network. The commercial ground floor use of the development will be serviced like many of the existing town centre uses in the centre of the site. The proposed student accommodation does not include any parking facilities. The only times where there could be impacts on the network are at the beginning and end of each academic year during drop-off and pick-up. Cityblock operates a pick up/drop off system which requires students to book a specific time slot. This controlled approach should prevent significant congestion and will therefore not have a detrimental impact on the local highway network. The Highway Authority has raised no objections to the principle of the redevelopment of the site for a mixed use retail/student accommodation proposal.
- 7.30 The construction phases of the development are, however, more likely to affect the operation of the local highway network and as such a construction management plan condition is recommended by the Highway Authority. Given the constrained nature of the site, the importance of maintaining appropriate traffic flows through the gyratory and retaining sufficient on-street parking provision, Officers understand the Highway Authority's recommendation for this condition, but ultimately the Highway Authority has its own powers to enforce such matters.
- 7.31 Cycle parking provision is proposed as part of this development however the level of provision is considered low. The plans indicate storage for only 4 bicycles for the whole development. Appendix D of the DM DPD, which relates to the standards for purpose building shared accommodation, indicates that cycle parking should be based on one space for every resident. The Council's Air Quality Officer echoes this requirement in light of the enhanced cycling aspirations for the city as part of wider strategic and emerging plans. The Highway Authority has not objected to the level of cycle provision. In the circumstances, a more balanced approach should be adopted given very good access to public transport as an alternative mode for transport. Officers therefore recommend a condition is imposed to secure a scheme for cycle storage that exceeds the four spaces offered as part of the proposal and is reasonable and consistent to other schemes permitted. It is anticipated that the number of spaces will not exceed 10.

Biodiversity Considerations

- 7.32 The National Planning Policy Framework is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature [paragraph 9], and that a core principle [paragraph 17] for planning is that it should contribute to conserving and enhancing the natural environment. In addition to the policy guidance set out in the Framework, there is a statutory

duty for local planning authorities to seek to minimise impacts on biodiversity and as such it is an integral part of policy and decision making, in particular protected species and their habitats. The presence of protected species is a material consideration in the determination of a planning proposal.

7.33 The application has been accompanied by a preliminary bat survey report in an attempt to address the above policy requirements in relation to biodiversity. The Council has a statutory duty in relation to assessing the implications of development proposals on the conservation status of protected species under European legislation. Officers are also aware of the Woolley judgement (Woolley v Cheshire East Borough Council and Millennium Estates Ltd [2009] EWHC 1227), which states that *“it is not sufficient simply to be aware of the presence of bats, a planning authority also has to be satisfied that effective mitigation measures can be put in place before planning permission can be granted and it is necessary for the decision maker to be satisfied that such mitigation measures achieved the desired result”*. The Woolley Judgement reaffirms the advice contained within the Bat Conservation Trust guidance and Natural England’s standing advice.

7.34 The submitted bat report clearly recommends that bat activity surveys should be carried out in order to assess whether the buildings are being used by bats. At this stage Officers have insufficient information to assess the impact of the proposal on protected species and to ensure the proposal would not lead to a breach of the Habitat Regulations and the favourable conservation status of the bat populations will be maintained. The applicant has advised that these surveys are in the process of being completed and will be submitted along with a report in advance of the Committee meeting. If the surveys and report conclude the development would not adversely affect protected bat species, and Members are satisfied with all other considerations, permission could be granted. If the reports are not conclusive and the impact on protected bat species needs further assessment, Officers will seek delegation back to the Planning Manager to address this outstanding matter. A verbal update will be provided.

Noise and Air Quality

7.35 The application has been supported by an appropriate noise assessment to ensure the site is suitable for residential use given its city centre location. This report concludes that the local noise environment is dominated by road traffic. The Council’s Environmental Health Officer is satisfied that the assessment is satisfactorily robust and that internal sound levels recommended within the British Standard (BS8233) can be achieved. To achieve appropriate noise levels within the living room and bedrooms glazing and ventilation mitigations measures are stipulated in the assessment. Such are recommended to be conditions to ensure ‘lowest observed effect levels’ in respect of noise for future occupants.

7.36 The submitted noise report does not assess the likely noise impacts associated with the proposed ground floor commercial use. That said, the proposed uses are not particularly unneighbourly uses, particularly the A1 and A2 uses. In the case of an A3 use occupying this space, a condition is recommended to secure details of the hours of operation and details of any ventilation and extraction system to enable the local planning authority to assess and ensure the manner in which the potential A3 ground floor use operates is compatible in amenity terms with the first floor residential accommodation. This approach is consistent with paragraph 123 of the NPPF which recognises the use of conditions as a suitable mechanism to avoid and minimise other adverse impacts.

7.37 The proposed site lies outside the Air Quality Management Area (AQMA) but given the site’s close proximity to it an Air Quality Assessment (AQA) has been submitted. This confirms that the pollutant levels at the site will be below the air quality objectives and therefore would be suitable for residential use. The development is a car-free development which means that there will be no adverse impact to the AQMA (through traffic generation and associated emissions). The assessment has been reviewed by the Council’s Environmental Health Officer who has accepted the conclusions of the AQA and has raised no objections to the proposed development. The construction stages of the development has the potential affect air quality locally. This is acknowledged in the report and sets out a number of mitigation measures relating to dust control, but this is covered by other legislation so no planning controls are required.

7.38 Other matters relating to drainage and contaminated land are material considerations. A preliminary risk assessment has been carried out which concludes that the site is not a significant risk to require detailed site investigation pre-determination. A site investigation condition is recommended if permission is granted. With regards to drainage, the applicant proposes to connect to the existing

main sewer for both foul and surface water as per the existing situation. There is little alternative in the proposed location. At the time of compiling this report, United Utilities and the Lead Local Flood Authority have not commented on the application. Given the site is not located within a flood risk area, it is contended that a foul and surface water drainage scheme is capable of being addressed by condition and that such would need to be a pre-commencement condition (but post-demolition). A verbal update will be provided if comments are received from the statutory consultees before the Committee meeting.

8.0 Planning Obligations

8.1 There are no planning obligations to consider as part of this application.

9.0 Conclusions

9.1 The proposed redevelopment of the site for a mixed use retail/office/café at ground floor and student accommodation above will significantly enhance the vitality for this part of the city centre as well as contribute to our housing needs. It also provides a very sustainable location for students to live. The development offers a great opportunity to regenerate a prominent corner plot within the Conservation Area which currently contributes little to its overall significance with a development of quality. The standard of accommodation is acceptable and in most cases exceeds the policy requirements. Where there are minor negative impacts to neighbouring residents, the need for the design of the development to conform to the townscape character outweighs such impacts. The design of the development has evolved through consultation with the local planning authority and whilst the building will dominate certain views and buildings within the Conservation Area, it is considered that the overall impacts are not significant and that the impacts have been mitigated by virtue of the quality of the design. On balance, and subject to the applicant resolving the outstanding ecology matters, Members are recommended that the application can be favourably considered.

Recommendation

Subject to the ecology matters being satisfactory resolved, that Planning Permission **BE GRANTED** subject to the following conditions:

1. Standard 3 year timescale
2. Development to be carried out in accordance with approved plans
3. Building contract to be in place for the redevelopment of the site before commencement of demolition (pre-demolition)
4. Site investigation for contamination (post-demolition)
5. Archaeology condition (in accordance with submitted written scheme of investigation with further investigation and reporting post demolition)
6. Drainage condition (post-demolition)
7. Precise details of the materials and finishes to external walls, windows/doors, cladding, roof detailing, rainwater goods, louvres, screen details and hard landscaping to courtyard to be agreed (before the construction of the development above ground)
8. Notwithstanding details submitted, details of cycle provision to be provided and agreed and then retained thereafter. (before the construction of the development above ground)
9. Scheme for security measures (before the construction of the development above ground)
10. Before any A3 use occupies the lower ground floor of the building, details of the hours of operation, sound attenuation measures (between floors) and any ventilation and extraction systems to be installed shall first be submitted to and agreed. Such measures will thereafter be retained.
11. Hours of construction
12. Provision of refuse facilities and access to such facilities to be provided and retained.
13. Noise mitigation to be implemented and retained
14. Use condition controlling ground floor to be limited A1, A2 and A3 use only.
15. Restriction of residential accommodation to students
16. Removal of permitted development rights relating to telecommunications, renewable energy and exterior painting

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

In accordance with the above legislation, the City Council can confirm the following:

Lancaster City Council has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

Background Papers

Member Engagement Forum Minutes.