

Agenda Item	A7
Application Number	22/00186/FUL
Proposal	Erection of coffee shop (Use Class E) with associated drive-thru, erection of two commercial units with associated access, car parking, electric vehicle charging points, substation, power cabinet and landscaping
Application site	Lancaster Business Park, Cottam's Farm, Caton Road, Quernmore
Applicant	Derwent Development Management Ltd
Agent	Mr Vincent Ryan
Case Officer	Mr David Forshaw
Departure	Yes
Summary of Recommendation	Approve

1.0 Application Site and Setting

- 1.1 The application site is situated within the Lancaster Business Park which is located approximately 2.5km northeast of the city centre. The business park is accessed off Caton Road (A589) around 500 metres west of Junction 34 of the M6 motorway. Caton Road provides the main vehicular route into the city from the strategic road network (SRN) and is served by regular half-hourly bus services. Caton Road borders the business park to the north with Caton Road Industrial Estate and the Holiday Inn complex opposite.
- 1.2 The site covers a total area of approximately 0.37ha and occupies a vacant plot at the entrance to the business park neighbouring Cottam's Field Brewers Fayre restaurant/pub to the northeast. Caton Road borders the northwestern boundary of the site with Mannin Way wrapping around the south and southern western boundaries. The site is well vegetated with scrub, hedgerows and trees. A vehicle access is provided off Mannin Way on the southeastern boundary of the site opposite Persimmon Home's office complex. With the exception of the restaurant and hotel to the norther east, surrounding land uses are all office based within the business park itself. There are some residential properties located to the southwest but are separated by intervening commercial development.
- 1.3 The site is located predominately within Flood Zone 2, with the exception of the southern and eastern edges of the plots which are located in flood zone 1. The whole site is subject to high ground water flood risk with the northern edges of the site also subject to areas of medium and high surface water flood risk. There are no protected trees on the site or neighbouring the site and no designated heritage assets affected by the proposals. The site is not affected by any landscape or nature conservation designation. The business park lies within the Air Quality Management Area zone of influence.

2.0 Proposal

2.1 The development comprises the construction of two buildings providing 395sqm of commercial floorspace for food and drink retail purposes (use class E) with a drive-through associated with one of the buildings. The development is broken down as follows:

- Unit 4a – 172sqm GIA to be operated as a drive-through coffee shop
- Unit 4b – 223sqm GIA of commercial Use Class E floorspace which is anticipated to be subdivide into two smaller units.

2.2 The proposed commercial units are single storey flat-roofed buildings measuring approximately 4 metres in height. Unit 4a includes an advertisement tower as part of its design which extends a further 3 metres in height. The buildings are proposed to be faced in external cladding comprising different colours/textures with curtain glazing to the main facades. The buildings are positioned at the northern and southern ends of the plot providing a shared, central car park between the two buildings. The car park provides 58 parking spaces including 4 accessible spaces and 6 EV charging spaces. Cycle parking is provided to the front of each of the buildings. The drive-through associated with unit 4a is proposed to operate in a clockwise direction around the north of unit 4a.

2.3 Vehicular access is proposed via Mannin Way utilising the existing estate road access/junction. Two new pedestrian access points are proposed to Mannin Way on the south and western boundaries of the site. A substation is proposed to the west of Unit 4b.

2.4 The application has been running concurrently with the larger commercial development proposed by planning application 22/00185/FUL.

3.0 Site History

3.1 The following applications relating to this site have previously been received by the Local Planning Authority:

Application Number	Proposal	Decision
20/01239/PRE3	Redevelopment of four plots to mixed use development (B2, B8 and E uses) with associated parking and landscaping	Closed
00/00939/OUT	Outline application for erection of mixed-use Business Park incorporating B1 and B2 uses, hotel and public house, and exercise, hydrotherapy and rehabilitation centre and new access	Permitted

4.0 Consultation Responses

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

Consultee	Response
Policy	Objects – The site is part of an employment allocation under EC1.14 of the SPLA. This allows B1 offices only, so the proposal is therefore a departure. It appears this is a speculative development with no specific end-users for these units. Therefore, it is difficult to assess the submitted sequential test, carried out to demonstrate there are no alternative suitable town centre or edge of centre sites for the proposed town centre use. The applicant's view that the principle of disaggregation cannot be considered as part of this application is not agreed. In its current form the application fails the sequential test. Although economic benefits have been advanced to provide justification for the departure, the speculative nature means there is no certainty these benefits will be delivered. The proposal fails the sequential test and does not provide the exceptional circumstances required to justify a departure from the development plan.

County Highways	<p>No objection subject to a contribution towards the delivery of wider infrastructure improvements and the following conditions:</p> <ul style="list-style-type: none"> • Construction Method Statement • Wheel Washing • Provision and retention of car parking before first use/occupation • Provision and retention of cycle parking before first use/occupation • Maintenance and management of estate roads <p>No formal s106 contribution request was made in relation to this application.</p>
LLFA (Local Lead Flood Authority)	No comments to make - Flood risk standing advice should be applied
United Utilities	No objection – UU comment that the drainage proposals are acceptable in principle but lacking sufficient information to inform the final design. A final drainage scheme is recommended by condition.
County Archaeology	No objections - No requirement for archaeological work on this site
Conservation Officer	Not providing comments
Natural England	No comments to make – standing advice should be applied
Arboricultural Officer	No objection – although greater consideration must be given to the existing tree cover and there are inconsistencies between the AIA and the landscape plans.
Environmental Health Officer	<p>No objection subject to the following conditions:</p> <ul style="list-style-type: none"> • Development to be carried out in accordance with the mitigation set out in the submitted air quality assessment. • Provision of EV charging points • Management of dust emissions during construction of the development • Acoustic boundary specified in the noise assessment to be provided.
Cadent Gas	No objection
Lancashire Fire & Rescue Service	No objection – offers standing advice on building regulation requirements for access and facilities for the Fire Service.
Lancashire Constabulary	At the time of compiling this report, no comments received. However, it is noted a BREEAM Security Needs Assessment Report by the Constabulary had been prepared and submitted with the planning application. This sets out several security recommendations to achieve the BREEAM security credit.

- 4.2 One letter of objection received. A summary of the main reasons for opposition are as follows:
- Existing problems of litter, anti-social and criminal behaviour from other drive through establishments will be worsened.
 - Support should be given to local independent businesses

5.0 Analysis

5.1 The key considerations in the assessment of this application are:

- Principle of development
- Retail assessment
- Highway and transport matters
- Flood risk and drainage
- Amenity and pollution
- Biodiversity and trees
- Design

5.2 **Consideration 1 - Principle of Development (Land Use)** (NPPF paragraph 7 – 12: Achieving Sustainable Development, paragraph 47: Determining applications, paragraphs 55-58: Planning Conditions and Obligations, paragraphs 85-87: Building a Strong, Competitive Economy; Strategic Policies and Land Allocations (SPLA) DPD policies SP1: Presumption in Favour of Sustainable Development, SP2: Lancaster District Settlement Hierarchy, SP3: Development Strategy for Lancaster District, SP4: Priorities for Sustainable Economic Growth, EC1: Established Employment Areas, EC5: Regeneration Priority Areas; Development Management (DM) DPD policies DM14:

Proposals Involving Employment and Premises and DM28: Employment Skills Plans and the associated Supplementary Planning Document.

- 5.2.1 The application site lies within the settlement boundary of Lancaster, identified in the SPLA DPD as a regional centre within the settlement hierarchy (policy SP2). The SPLA DPD also sets out the development strategy for the district and promotes an urban-focussed strategy (policy SP3), directing future growth and development towards the main urban areas of Lancaster, Morecambe, Heysham and Carnforth. One of the fundamental aims here is to promote development in sustainable locations. The proposed development aligns with the Council's spatial strategy and the strategic objective to *deliver a thriving local economy that fosters investment and growth and supports the opportunities to deliver economic potential of the district (SO1)*.
- 5.2.2 Lancaster Business Park is located on the eastern gateway into Lancaster (A683 Caton Road) close to Junction 34 of the M6 and the Bay Gateway. Due to its strong accessibility to the strategic road network (SRN) and visual prominence on the eastern gateway into the city, the Council consider the site suitable for high-quality business space. This is reflected by the site's strategic allocation for employment development (Policy EC1). This policy seeks to support and encourage economic growth and new development opportunities within established employment areas. In the context of Lancaster Business Park, policy EC1 makes it clear that the uses on this employment site are to be restricted to B1 uses. Policy EC1 states:

'Development proposals for B1 (Office) will be supported in principle within the following employment areas identified below [including Lancaster Business Park]. Proposals that involve B2 (General Industrial) and B8 (Storage and Distribution) uses, which increase HGV traffic and have an impact on local amenity will not be supported.'

- 5.2.3 The proposed development involves the provision of a drive-through coffee shop and two commercial Use Class E units. Use class E is extensive and covers a wide range of uses – some which could be compatible with the employment allocation, such as E(c) which includes financial services, professional services (other than health and medical) and any other use which is appropriate to provide in a commercial, business or service locality. The applicant is not specifically seeking use class E(c) and is wanting a more flexible use here which could accommodate food and drink retail uses. Subsequently, the proposal must be considered a departure to the Development Plan. The NPPF is clear that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The conflict with policy EC1 must be weighed in the planning balance having regard to all other material considerations.
- 5.2.4 Notwithstanding the conflict with policy EC1 of the SPLA DPD, it is important to consider the potential socio-economic benefits arising from the proposal. The applicant has indicated that the proposal would provide a total of around 87 construction jobs with a GVA of £2.4m during the construction phases of the development. Once operational, the applicants Economic Benefits Statement predicts around 21 full-time jobs with a GVA from gross employment (per annum) of £0.44m with circa £31k in annual business rates. These benefits weigh in favour of the proposal and support the drive to deliver a strong business economy.

5.3 **Town centre considerations (NPPF Chapter 7 (Ensuring the vitality of town centres); Strategic Policies and Land Allocations DPD policies TC1 (Retail Hierarchy for Lancaster District), TC2 (Town Centre Designations) and Development Management DPD policies DM16 (Town Centre Development) and DM19 (Retail development outside defined centres).**

- 5.3.1 National and local planning policy directs development for town centre uses, such as retail, to identified centres to protect their vitality and viability. This requires a sequential test to be undertaken when assessing proposals for retail (and other town centre uses) in out of centre locations. The approach requires main town centre uses to be located in town centres, then in edge of centre locations; and only if suitable sites are not available, or not expected to become available within a reasonable period, out of centre. When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. The NPPF defines 'edge-of-centre' locations, for retail purposes, as a location that is well connected to, and up to 300m from, the primary shopping area. In determining whether a site falls within the definition of edge of centre, account should be taken of local circumstances.

- 5.3.2 Local planning authorities are required to exercise a degree of pragmatism when assessing whether or not a proposal meets the requirements of the sequential test. For example, it is recognised that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations.
- 5.3.3 The proposed development is clearly one that is defined as a typical town centre use and is proposed in an out of centre location. The application is supported by a sequential assessment.
- 5.3.4 Policy DM16 requires proposals for main town centre uses outside of city or town centres to address the following issues:
- An assessment of suitability, viability, and availability of locations for main town centre uses having regard of the need that is being addressed;
 - Ensure that all town centre options have been thoroughly assessed before less central sites are considered;
 - Ensure that where it has been demonstrated there are no town centre sites to accommodate the development, preference is given to edge of centre sites that are well connected by sustainable travel options;
 - Ensure that in considered sites on the edge of existing centres, developer operators have demonstrated flexibility in terms of scale and format.
- 5.3.5 Policy DM19 relates to retail development outside of defined centres which fall below 150sqm gross floorspace. This proposal exceeds this threshold therefore policy DM19 is not applicable. Policy DM16 remains the pertinent policy in which the application must be assessed against. DM16 requires a sequential test for town-centre uses/developments in out of centre locations and retail impact assessments where the floor area created exceeds 500sqm. The development falls below this threshold therefore no retail impact assessment is required as part of this proposal.
- 5.3.6 The submitted retail sequential test (ST) recognises Lancaster City Centre is identified in policy TC1 of the SPLA DPD as a regional centre at the top of the retail hierarchy. The site is located 2.4km from the city centre. The ST has considered a 5-minute drive catchment area and within this catchment, the area of search also includes the rural settlement of Halton alongside Lancaster City Centre. This is considered a reasonable catchment for assessment. The ST considers the suitability of alternative sites for the proposed development having regard to caselaw precedent (Tesco Stores Limited v Dundee City Council Supreme Court judgment 2012) and subsequent appeal decisions which have equally accounted of the abovementioned judgment. This judgement ruled retail STs must be considered and viewed “in the real world” (in which developers wish to operate) and that all parties take a flexible approach to the sequential assessment.
- 5.3.7 The point being raised by the applicant is that developers should not be required to fundamentally reconfigure or alter their proposals, including consideration of disaggregation, when undertaking an assessment of alternative sites in locations that local planning authorities may deem to be sequentially preferable. Fundamentally, it is the applicants position that consideration of alternative sites should be capable of accommodating the whole development being applied for – in this case the drive-through unit, the additional retail units and the associated servicing and parking. Availability of alternative sites has also been considered as part of the ST. Paragraph 91 of the NPPF indicates availability of sites to be within a reasonable period. This is not defined in policy. Instead, the NPPG indicates that when considering what is reasonable period of time, for the purposes of the ST, the scale and complexity of the proposed scheme and potentially suitable town or edge of centre sites should be taken into account.
- 5.3.8 The applicant’s position is that alternative sites should be capable of accommodating 395sqm of food and drink retail including a drive-through facility with a 10% margin for flexibility, in accordance with the NPPG which advocates scope for flexibility in the format and scale of the development. The applicant also demands a roadside frontage and convenient access to the highway network to meet the operational requirements of the coffee-shop drive-through. The applicant also contends that alternative sites should be available now or be known to becoming available within a reasonable period.
- 5.3.9 The applicant’s assessment of alternatives in centre and edge of centre sites covers a wide range of sites including the repurposing and reuse of existing buildings. All the in-centre locations were

considered unsuitable on the grounds of being insufficient in size to accommodate the floor area demands and the drive-through unit. The assessed edge of centre sites were also discounted on the basis that the sites were not large enough to accommodate the whole development (with flexibility), failed to have suitable frontage to the highway or were compromised by their existing land use allocations (such as smaller sites within the Canal Quarter Regeneration Area). Other sites assessed including the Bulk Road/Parliament Street sites, which are now in the process of being constructed for student housing and are certainly no longer available for the development, despite being discounted by the applicant in their ST.

- 5.3.10 The applicant contends the ST is passed and that the site proposed on the Lancaster Business Park is the most suitable out of centre site for the development.
- 5.3.11 The Council's planning policy team object to the proposal contending the ST was not sufficiently robust raising specific concerns over the speculative nature of the development and how this makes it difficult to agree or disagree with the suitability of alternative sites in the ST. The policy team has also raised concern that disaggregation of the proposed development has not been considered – rather dismissed outright on the basis of planning case law and recent appeals. Other appeal decisions which have indicated disaggregation should form part of the consideration of flexibility in the application of a ST have been highlighted. The policy team go on to state that the question of whether or not disaggregation is required in the application of the sequential test will be dependent on the individual circumstances, particularly looking at the functional and commercial links of the proposal. The concerns being raised from a policy perspective are clearly embedded in the fact the proposal is a departure to the Development Plan and that this is retail development proposed on an allocated employment site, therefore exceptional circumstances should be justified.
- 5.3.12 In response to this objection, the applicant provided further information which clearly identifies that there is nowhere in policy or guidance which requires the operational users of the development to be known in order for an assessment of suitable alternative sites to be undertaken as part of the ST, in particular the need for consideration of disaggregation. The applicant is given an indication of the types of end-users (e.g. Starbucks, Costa, Pret, Greggs or Subway) and based on the layout and scale of the units proposed, the reality is that the nature of these uses will be suited to these businesses. The applicant did confirm heads of terms had been secured with a Starbucks UK approved franchisee, though this was some time ago now and that Greggs had taken a keen interest in the development. The applicant also indicates that the proposal has a functional link with the wider business park, noting to attract businesses to the business park (existing units and those proposed by 22/00185/FUL) market evidence indicated improved amenities (such as food and reink retail) on the site would be required. The applicant anticipates that on-site provision of food and drink uses would result in reduced vacancy rates and the prompt delivery of the proposed B2/B8 uses and therefore maintain their position that disaggregation is inappropriate for this development.
- 5.3.13 The consideration of disaggregation as part of the ST is one of planning judgement. Accordingly, the question of whether or not a consideration of disaggregation is required in the application of the ST will depend upon individual circumstances, including, in particular, the nature of the development proposal and the potential existence of factors that mean a scheme cannot sensibly be split. From the Council's perspective, the proposed development could quite easily be split into two separate parcels – a coffee drive-through unit and two additional retail units. If this was the case, the two retail units (without the drive through) could be met within vacant property in the city centre and the ST would fail for this element of the scheme. It is accepted, there are no other suitable sites which could accommodate the drive-through and this element of the scheme would pass the ST. However, if desegregation was not considered relevant, perhaps because of commercial considerations such as the business model, then the whole scheme could not be met in a more sequentially preferable centre or edge-of-centre site.
- 5.3.14 In assessing the conflict or otherwise with policy DM16 and the NPPF, it is important to consider the harm arising from the proposal. This is retail development on an employment site – protected for employment purposes, namely offices. However, this site and the remaining undeveloped parcels have been vacant with little developer interest for around 20 years. The existing business park already has a mix of leisure uses including the hotel, gym, restaurant, and nursery. It is on a principal highway into the city served well by public transport. It will offer a greater amenity to existing users of the business park and the wider industrial area, which it is accepted could provide wider sustainability benefits. Furthermore, given the scale and nature of the development and likely

end users, the harm to the viability and viability of the town centre is unlikely to be significant. To minimise the level of conflict with the policy and to ensure the sustainability benefits can be realised, it is recommended conditions are imposed to limit the uses to Use Class E (a), (b), (c) and (g) only and that the units cannot be amalgamated or further subdivided for Use Class E(a). These restrictions would potentially prevent the use of these units for general retail but would also enable the units to be used for offices or light industry in line with the strategic policy which supports employment development. As far as the ST is concerned, there is an argument disaggregation should form a consideration in the assessment of the ST and that the submitted ST failed to do so. However, the harm arising from this conflict, given the circumstances of the site and the scale of the development, is not significant and should be given moderate weight in the planning balance.

5.4 **Access strategy, traffic impacts, and accessibility** (NPPF: Chapter 9 Promoting Sustainable Transport and Chapter 12 Achieving well-design places; Strategic Policies and Land Allocations (SPLA) DPD policies SP10 Improving Transport Connectivity, EC1: Established Employment Areas, EC5: Regeneration Priority Areas, T2: Cycling and Walking Network and T4: Public Transport Corridors; Development Management (DM) DPD policies DM29: Key Design Principles, DM60: Enhancing Accessibility and Transport Linkages, DM61: Walking and Cycling, DM62: Vehicle Parking Provision, DM63: Transport Efficiency and Travel Plans; DM64: Lancaster District Highways and Transport Masterplan.

5.4.1 The application has been supported by a Transport Assessment to demonstrate the development can be safely accessed, that there are a range of sustainable transport options available to serve the site and that the traffic impacts can be safely accommodated on both the local and strategic road network without causing any severe impacts. This report considers the highway impacts under three sub-headings: access strategy, traffic impacts and accessibility.

5.4.2 Access Strategy - The proposed development will be serviced by the existing signal-controlled junction at Caton Road / Mannin Way. The proposal does not include any alterations to this junction, as it was clearly designed to accommodate the wider business park and the development originally approved as part of the outline planning permission (00/00939/OUT). Access into the proposed site will be via with existing junction off Mannin Way with the drive-through routing in a clockwise direction through the internal car park and to the north of unit 4a. The local highway authority (LHA) has raised no objection to the access proposals. Policy DM60, together with DM29, requires development proposals to be accessed safely during both construction and operational phases of the development. The applicant has sufficiently demonstrated these policy requirements can be met.

5.4.3 Traffic Impacts – The application has been supported by a Transport Assessment (TA) which has assessed the traffic impacts arising from the development accounting for cumulative traffic impacts. The proposed development is intended to serve the wider Business Park and passing trade from the local area and the surrounding employment estates and vehicles travelling along Caton Road rather than drawing customers from a wider catchment and the town centre. The vehicle trip generation predicted for the proposed uses equates to 55 two-way AM peak trips and 45 two-way PM peak trips. The TA has compared these trips to the trips anticipated by the previously approved uses (00/00939/OUT) which concludes a significant reduction of 90 AM peak trips and 70 PM peak trips. As set out in the recommendation for 22/00185/FUL, the TA has considered the effects of traffic on key junctions and has concluded there is no severe impacts and that in the case of this development the development would see fewer trips from those previously approved, leading to net benefits to the local highway network. The local highway authority has raised no objections to the proposal. They had requested a financial contribution to the wider transport infrastructure strategy. However, for the reasons set out in our recommendation for 22/00185/OUT, no such request could be justified given no adverse impacts are likely to arise from the development, compared to the previously approved schemes and that no cumulative residual impacts have been identified on the network. On this basis, the proposed development does not conflict with policy SP10 of the SPLA DPD and DM60 -DM64 of the DM DPD or the NPPF in this regard.

5.4.4 Parking Standards – Policy DM62 of the DM DPD sets the local requirements for parking for different land uses including provision for accessible spaces and cycle parking. The scheme proposes 58 parking spaces including 4 accessible spaces and 6 EV charging spaces. The local highway authority comment that the level of parking provision is below recognised recommended standards, but given the sites location and adjacent environment, the shortfall is considered not to have a detrimental impact on highway safety or capacity. Parking standards are set at maximums

standards and in this case, given the potential for linked trips and the units serving existing employees on the business park, the shortfall is accepted. The provision of cycle parking and EV charging is also considered acceptable. In this regard, there is no conflict with policies DM61 and DM62 DM DPD.

- 5.4.5 Accessibility – the proposed development will provide amenities for people already working and visiting the business park. Therefore, it is anticipated there will be people visiting the proposed development on foot or by cycle. The business park is already well served by public transport (on Caton Road) and has suitable pedestrian connectivity within the estate and onto Caton Road. Additional direct links from the site to the existing and new footways forming part of this development and that proposed by 22/00185/FUL are proposed. The local highway authority is also satisfied that the internal layout and access strategy suitably caters for pedestrians and cyclists. On this basis, there is no conflict with policy DM29 or DM61 of the DM DPD.
- 5.5 **Flood Risk and Drainage** (NPPF: Chapter 14 Planning for Climate Change; Strategic Policies and Land Allocations (SPLA) DPD policies SP8 (Protecting the Natural Environment); Development Management (DM) DPD policies DM33 (Development and Flood Risk), DM34 (Surface Water Run-off and Sustainable Drainage), DM35 (Water Supply and Waste Water) and DM36 (Protecting Water Resources and Infrastructure)).
- 5.5.1 Strategic policy seeks to ensure new growth within the district is located in the areas at least risk of flooding, following a sequential approach, and does not create new or exacerbate existing flooding and aims to reduce flood risk overall. The NPPF and the above referenced DM DPD policies require development to be in areas at least risk of flooding (following the sequential and exception tests) and for major proposals to ensure surface water is managed in a sustainable way accounting for climate change.
- 5.5.2 Having regard to the most up to date data, the application site is predominately located in floodzone 2 and is also affected by low to medium risk of surface water flooding high risk of ground water flooding. Given the identified risk of flooding within the site and the scale of development, the application is accompanied by a site- specific flood risk assessment and a flood risk sequential test.
- 5.5.3 The flood risk sequential test has been requested by the local planning authority based on the requirements of paragraph 172 of the NPPF which states:
*'Where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again. However, the exception test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage, **or if more recent information about existing or potential flood risk should be taken into account [our emphasis].***
- 5.5.4 Whilst the applicant contents a sequential test is not required, an assessment has been provided based on an agreed scope narrowing the area of search for reasonably available sites appropriate for the proposed development to the allocated Regeneration Priority Area that the site falls within (Caton Road Gateway). The retail sequential test is also relevant consideration. Whilst there are some matters within the assessment that are not agreed, it is clear from the assessment undertaken, that there are no alternative sites suitable to accommodate the proposed development within the area of search at a lower risk of flooding to that of the application site. Simply considering the risk from fluvial flooding, most of the land to the west of Caton Road within the RPA lies within floodzone 2 and 3, which pose a similar or greater risk that the collective risk of floodzone 2, some medium surface water flooding and high risk of groundwater flooding on the application site. Where there are pockets of floodzone 1 on land within the RPA, this would require disaggregation of the proposed development. Whilst this is not dismissed outright, the land in floodzone 1 is in active use for alternative developments and is considered unavailable. Accordingly, officers are satisfied, that the need to investigate the availability of any other alternative sites is not required, as the application site is at a similar or lower risk of flooding than other areas within the wider RPA. On this basis, the sequential test is passed in accordance with the paragraph 168 of the NPPF and policy DM33. The flood risk exception test is not required as the proposed development is considered 'less vulnerable' in accordance with the criteria set out in paragraph 066-067 of the NPPG. Nevertheless, the development must not be a risk of flooding or cause flooding elsewhere, as per the requirements of DM33 and paragraphs 173 of the NPPF. A flood risk assessment and drainage strategy accompany the application to mitigate any residual flood risks and to ensure the development is safe for its

lifetime.

- 5.5.5 Having regard to on-site flood risk considerations, given the extent of floodzone 2 across most of the site and the same in relation to ground water flooding, it is not possible to avoid these flood risk areas. The surface water flood risk area is limited to the northern extent of the site. Accordingly, mitigation is required largely in the form of addressing the finished floor levels of the buildings and a suitable surface water drainage strategy. The site topography is relatively flat, with a slight fall from circa 11m AOD along the southern boundary to circa 9.8m on the northern boundary. The FRA indicates new development should be raised above the extreme modelling flood level, including freeboard allowance to protect against the identified flood risk. In this case, the FRA recommends a finished floor level of 10.9m AOD and flood resilience building design measures. Given access and egress is via floodzone 2, it is also necessary for a Flood Evacuation Management plan to be prepared and implementation. Such mitigation can be suitably accommodated by planning condition and would ensure the development is compliant with flood risk policy.
- 5.5.6 The proposed drainage strategy for the development aligns with the wider proposals (22/00185/FUL) and includes attenuation provided on site with a controlled surface water discharge of 5.0l/s to the existing surface water sewer on Mannin Way. Whilst the site is previously developed land, the applicant proposes to discharge surface water at a greenfield rate which must be considered positively. The LLFA are not a statutory consultee to this application but are in relation to 22/00185/FUL and have raised no objection. United Utilities have raised no objection to the foul or surface water drainage proposals, subject to the final details being controlled by condition.
- 5.5.7 Subject to conditions, the applicant has adequately demonstrated the site is capable of being drained without increase the risk of flooding on site or elsewhere. This is considered compliant with the NPPF and policies DM33 and 34 of the DM DPD.
- 5.6 **Amenity and Pollution** (NPPF: Chapter 8- Promoting Healthy and Safe Communities, Chapter 11 – Making effective use of land, Chapter 12- Achieving Well-Designed Places and Chapter 15 - Ground Conditions and Pollution; Strategic Policies and Land Allocations (SPLA) DPD policy EN7 (Air Quality Management Areas); Development Management DM) DPD DM29 (Key Design Principles), DM30 (Sustainable Design), DM31 (Air Quality Management and Pollution), DM32 (Contaminated Land) and DM57 (Health and Well-Being).
- 5.6.1 Paragraph 191 of the NPPF requires planning policy and decisions to ensure new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment. To achieve this, it is necessary to avoid noise impacts giving rise to significant adverse effects and to mitigate and reduce potential adverse effects resulting from noise from new development. Policy DM29 of the DM DPD and paragraph 135 of the NPPF is also relevant in the context of assessing the effects of development on residential amenity. Both strongly advocate the need for new development to be if high standard of design ensuring high standards of amenity are maintained and secured for existing and future users. Policy DM29 specifically state that new development must ensure there is no significant detrimental impact to amenity in relation to overshadowing, visual amenity, privacy, overlooking, massing, and pollution.
- 5.6.2 The development proposed is situated over 120 metres from the closest residential dwelling on Lune Valley estate and is separated by Mannin Way and existing office development. The access to the proposed site is not shared with these existing residents and given the scale of the proposed buildings, it is considered that the development will not affect their visual amenity, outlook, or cause any loss of privacy. The proposed use could give rise to additional noise and disturbance. An acoustic assessment has been submitted to support the application. This assessment covers the development on plot 4 and the wider development covered by planning application 22/00185/FUL. In summary, this assessment concludes the only mitigation required to protect residential property is the acoustic fencing around plot 3 (22/00185/FUL). The applicant has sufficiently demonstrated any noise impacts from the proposed development (on plot 4) would not adversely affect the living conditions and wellbeing of nearby residents in compliance with policy DM29 of the DM DPD and paragraph 135 of the NPPF.
- 5.6.3 The application site is surrounded by existing businesses, including offices, hotel and restaurant, gym, nursery, and golf course. Accordingly, it is appropriate to consider the potential effects arising from the operation of the proposed development on the operation of these existing uses.

- 5.6.4 Paragraph 193 of the NPPF states: *'Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.'* It goes on to state that *'where an operation of and existing business or community facility could have a significant adverse effects on new development, the applicant (Agent of Change) should be required to provide suitable mitigation before development has been completed.'*
- 5.6.5 The applicant's acoustic assessment has determined that the predicted noise rating level during the daytime periods, at existing receptor sites including the hotel and offices, would achieve or fall below the background sound levels. The Council's Environmental Health Officer has raised no objection to the development subject to the acoustic mitigation. The mitigation relates only to the acoustic fence around plot 3 and is not, therefore applicable, to this proposal. Notwithstanding this, given the adjoining hotel and restaurant use, it is considered reasonable and that the proposed Class E uses operate with similar opening hours to the adjoining restaurant/public house in the interests of protecting nearby hotel visitors. Accordingly, it is recommended the uses operate between the hours of 06:000 – 23:00 seven days a week.
- 5.6.7 In conclusion, having regard to the outcomes of the acoustic report and consideration of the scale, layout, design, and type of uses proposed within the site, it is considered that the development would suitably integrate into the business park without adverse impacts to existing commercial and leisure operators. On this basis, the proposed is considered to comply with the requirements of paragraph 193 of the NPPF.
- 5.7 **Biodiversity and Trees** (NPPF: Chapter 15 (Habitats and Biodiversity); Development Management (DM) DPD policies DM44 (Protection and Enhancement of Biodiversity) and DM45 (Protection of Trees, Hedgerows and Woodland)).
- 5.7.1 The application site is not directly affected by any statutory or non-statutory designated nature conservation site. Morecambe Bay and the Lune Estuary is over 3km from the site, and for commercial development, lies outside the threshold area triggering the need for assessment under the Habitat Regulations Assessment. The closest non-statutory wildlife sites to the application site include Long Bank Wood (ancient woodland) Biological Heritage Site (BHS), Lancaster Canal BHS and the River Lune BHS. The River Lune and Lancaster Canal are separated from the site by intervening development and Caton Road and, other than drainage implications, would not be materially affected by the development. Unlike the development proposed by planning application 22/00185/FUL, this site is separated by Long Bank Wood by other development and development sites on the business park.
- 5.7.2 The site has naturally regenerated over time with scrub vegetation in the centre of the site with more mature hedgerows and trees to the site boundaries. The application has been supported by the wider masterplan site ecological appraisal encompassing the land and development proposed as part of planning application 22/00185/FUL. This appraisal confirms most of the application site consists of poor semi-improved grassland with dense scrub and species-poor hedgerows to the site boundaries. Whilst the condition and quality of this habitat is not significant, the site has a baseline biodiversity value.
- 5.7.3 Policy DM44 states development proposals should protect and enhance biodiversity and wherever possible provide net gains in biodiversity. The policy goes on to state where harm cannot be avoided, a development must demonstrate that the negative effects of a proposal can be mitigated, or, as a last resort, compensated for. This is consistent with the NPPF (paragraph 180) which indicates planning decisions should minimise impacts on and provide net gains for biodiversity, including establishing coherent ecological networks. Paragraph 186 of the NPPF requires decision-makers to follow several principles to safeguard biodiversity. This includes a requirement to refuse planning permission where significant harm to biodiversity is identified which cannot be avoided, mitigated, or compensated for and where development results in the loss or deterioration of irreplaceable habitats (such as ancient woodland), unless there are wholly exceptional reasons.
- 5.7.4 The application has been supported by a Biodiversity Net Gain Assessment which has been amended during the application to satisfy the requirements of Greater Manchester Ecology Unit

(GMEU) (under the consideration of the larger planning proposals 22/00185/FUL). The outcome of the assessment shows a small loss in biodiversity on this site (1.83 units). Given the scale and layout of the development proposed, the size of the plot and the sites allocation for employment development, it is accepted onsite BNG is not achievable. GMEU recommended a financial contribution to the value of 2 biodiversity units to be provided off-site to secure a meaningful net gain in biodiversity.

- 5.7.5 Mandatory BNG is not applicable to this proposal due to when the application was submitted. Nevertheless, over the past 18 months the applicant has actively been looking to secure a suitable off-site proposal to compensate for the biodiversity losses from this scheme and the other larger proposal (22/00185/FUL) to accord with policy DM44 and the NPPF. This has involved lengthy and complex discussions between the applicant and their advisors, officers of the council, GMEU, legal advisors, wildlife organisations and a third-party landowner. In the absence of opportunities on site, elsewhere within Lancaster District, the applicant had been in the process of partnering with the Ribble Rivers Trust and a landowner in the Ribble Valley to deliver a habitat creation scheme which could have provided 14.5 habitat units. This would have more than compensated for the identified habitat loss. This scheme, whilst not ideal, was supported by officers and GMEU. However, with challenges around the legal framework to secure the off-site scheme coupled with viability concerns, due to the landowner's desire for enhanced profits, the applicant has regretfully had to withdraw the BNG offer. Given the time taken already to try and secure net gains in biodiversity, the applicant understandably wishes the proposal to be determined as it stands, which would result in net losses in biodiversity.
- 5.7.6 Policy DM44 states proposals **should** [our emphasis], as a principle, provide net gains in biodiversity assets **wherever possible** [our emphasis]. This is consistent with paragraph 180 of the NPPF. It does not state development must provide net gains. Of course, protecting and enhancing the natural environment is a key component of delivering sustainable development, but given the sites allocation for development, and the efforts the applicant has gone to try and secure net gains, it is considered that any conflict with policy DM44 is limited.
- 5.7.7 To construct the development, all the category C trees (G2) largely in the centre of the site shall be removed. These mainly comprise self-seeded and naturally regenerated hawthorn scrub, Buddleia, Goat Willow, young Oak and Alder hedgerows trees. The existing hedgerow and trees to the northwest and southwestern boundaries of the site are proposed for retention, with the exception on a single tree and short section of hedgerow to provide a pedestrian access point onto Mannin Way.
- 5.7.8 The retained planting will need careful attention during construction given the proximity of the proposed car park to these landscape features. Conditions to secure the proposed tree protection measures and a detailed Arboricultural Method Statements are recommended. The Council's Arboricultural Officer has not objected to this proposal despite raising disappointment that the layout of the development had not positively incorporated existing landscaping, especially to the northeastern boundary with the restaurant. Whilst there will be losses, the vegetation lost is not of significant value. The development has incorporated the retention of higher category hedgerows to the most visually exposed locations with new planting proposed to complement the design of the development and the visual appearance of the business park. It is considered the development would accord with policy DM45 of the DM DPD.
- 5.8 **Design** (NPPF: Chapter 12 (Achieving Well-Designed Places) and Chapter 15 (Conservation and enhancing the natural environment) and Development Management (DM) DPD policies DM29 (Key Design Principles) and DM 46 (Development and Landscape Impact).
- 5.8.1 Policy DM29 requires new development to make a positive contribution to the surrounding landscape/townscape through good design, having regard to scale, appearance, layout, materials and local distinctiveness. It goes to state that new development in gateway locations must be of a high standard of design and contribute towards creating a positive statement when entering the district's major settlements. This policy is consistent with the NPPF, which recognises the importance of good design in achieving sustainable places (paragraph 131).
- 5.8.2 The proposed site occupies a prominent, gateway position into the city and the business park itself. The design of the development is considered sympathetic to the surrounding built environment and will positively integrate with the existing business park. The scale, layout and orientation of the

development responds to Caton Road in a positive manner and will create a new focal point when entering the business park. Unit 4b is inward facing resulting in a blank elevation facing the internal estate road. Whilst this is not ideal, the set back from the edge of pavement, high-quality use of materials and space for planting will soften the appearance of the development. A condition is also recommended for details of the appearance of the sub-station and details of any refuse enclosures to ensure these do not detract from the character of the area. Subject to these conditions and conditions controlling the precise colour, texture and finish to the building materials, including fencing, the development is considered to fully accord with policy DM29 of the DM DPD and chapter 12 of the NPPF.

5.8.3 The application has also been supported by a Landscape and Visual Appraisal which has identified and assessed the anticipated short term and residual effects resulting from the combined development (this application and application 22/00185/FUL) on the character and feature of the landscape and on people's views and visual amenity. The site is well contained with any development considered in the context of the existing business park and the urbanising nature of the neighbouring transport corridors. Having regard to the sensitivity of different receptors and the anticipated magnitude of change arising from the development, the submitted LVA concludes for the site and its setting there to be minor beneficial long term residual effects on the landscape. In the case of plot 4 development, the residual visual effects are also considered to be moderate-minor beneficial. Officers concur with the conclusions of the LVA and agree the development would not give rise to significant adverse effects on the landscape or views from the surroundings. On this basis, there are no conflicts with the NPPF or development plan in this regard.

6.0 Conclusion and Planning Balance

6.1 The proposed development does not accord with the Local Plan's allocation for the site to be developed for employment (office) purposes only. The argument advanced by the applicant is that the proposed development will form an ancillary role to the business park and will provide increased amenities to stimulate wider economic development on the remaining parcels of land (22/00185/FUL). There is an argument this could be the case. The applicant has provided a town centre sequential test which demonstrates the whole development could not be located anymore more sequentially preferable to the application site. There remains disagreement between the council and the applicant over the consideration of disaggregation in assessing suitable alternative sites and on this basis, there is an argument that the retail sequential test fails. However, the failure of this test is not determinative of the outcome of the proposal. Whilst there is conflict with the employment allocation policy and the town centre retail policy, the proposal will regenerate previously developed land (within a regeneration priority area) which has remained vacant for the past two decades. The proposed will also result in small losses in biodiversity but such that would not amount to conflict with current policy. On the other hand, the scheme will provide significant socioeconomic benefits in the form of GVA and job creation and will potentially stimulate greater level of economic activity on the existing business park by providing more amenities on the site. These benefits should be given significant weight. The applicant has adequately demonstrated the site would not be at risk of flooding or cause flooding elsewhere (having passed the sequential test), that the impacts on trees and landscaping can be mitigated, and that the site can be suitably accessed with sufficient parking and proposals to encourage sustainable travel. The applicant has also demonstrated the development will be capable of coexisting with other surrounding land uses without adverse effects. Finally, the design of the scheme is considered to be high quality and will complement the sites gateway position into the city. Whilst the proposal constitutes a departure to the Local Plan, it is contended that the level of harm is not significant to outweigh the benefits arising from the development. On this basis, it is recommended planning permission be granted.

Recommendation

That Planning Permission BE GRANTED subject to the following conditions:

Condition no.	Description	Type
1	Time Limit	Pre-Commencement
2	Approved Plans	Pre-Commencement

3	CEMP (Construction Environment Management Plan)	Pre-Commencement
4	Drainage Scheme	Pre-Commencement
5	Written Scheme of Investigation for Archaeology	Pre-Commencement
6	In accordance with submitted AIA, Tree Protection and AMS (Aboriginal Method Statement) to be submitted and agreed for each plot.	Pre-Commencement
7	Final details of all external materials, including samples, to the buildings and fencing.	Pre-slab level
8	Final finished floor levels to be agreed	Pre-Commencement
9	Details of substation	Pre-slab level
10	Details of waste storage areas, enclosures and management plan	Pre-slab level
11	Provision of cycle provision and vehicle parking before occupation	Pre-occupation / first use
12	Verification of the implementation of the approved drainage scheme and details of a Surface Water Maintenance Plan	Pre-occupation / first use
13	Development shall be carried out in accordance with the submitted FRA, with the following additional detail submitted and approved before first occupation: <ul style="list-style-type: none"> Flood Evacuation Management Plan would be required. 	Pre-occupation / first use
14	Prior to the installation of any external plant to any of the buildings hereby approved, details of the plant and accompanying acoustic assessments shall be provided demonstrating a rating level from fixed plant items not exceeding 37 dB during any period at the closest residential dwelling.	Pre-occupation / first use
15	Travel Plan	Pre-occupation / first use
16	Implementation of approved landscaping scheme	Control
17	The development shall be design and constructed to meet BREEAM 'Very Good' standards.	Control
18	Operating hours - 06:00 – 23:00	Control
19	Use Class restrictions (Use Class E (a), (b), (c) and (g) only	Control
20	No subdivision or combing of the units if in E(a) use	Control

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

In accordance with the above legislation, Officers have 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 made 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

None