

DECISION DATE 9 July 2007	APPLICATION NO. 07/00673/CON A10	PLANNING COMMITTEE: 13 & 14 October 2008
DEVELOPMENT PROPOSED APPLICATION FOR CONSERVATION AREA CONSENT TO DEMOLISH 133 - 139 ST LEONARDS GATE, 1 - 5 STONEWELL, 3 - 7 MOOR LANE AND ALL ANCILLARY STRUCTURES		SITE ADDRESS 133 - 139 ST LEONARDS GATE 1 -5 STONEWELL 3 - 7 MOOR LANE LANCASTER LANCASHIRE
APPLICANT: Centros Miller Lancaster LP C/o Agent		AGENT: Montagu Evans LLP

REASON FOR DELAY

Joint determination with main outline planning application (Ref: 08/00866/OUT).

PARISH NOTIFICATION

None.

LAND USE ALLOCATION/DEPARTURE

These properties lie within the Stonewell Upper Floors Improvement Area, as designated by the Lancaster District Local Plan. Part of the site lies within the City Conservation Area. It abuts a Housing Opportunity Site. Stonewell forms part of the Strategic Cycle Network, the Primary Bus Corridor and is within the Lancaster Central Parking Area.

The buildings (with the exception of 3-7 Moor Lane) are also Key Townscape Features. Number 9 Moor Lane, outside this Conservation Area site, is a Key Townscape Feature too. The statutory designations for the wider site are listed in the 08/00866/OUT report.

STATUTORY CONSULTATIONS

A number of statutory consultees have made comment on the main outline planning application.

Where the comments relate to the historic environment, the comments from the statutory consultee are considered to be relevant to the consideration of this committee report, and therefore their views are provided below.

Commission for Architecture and the Built Environment (CABE) - CABE did visit the site and the proposal was being discussed at their Design Panel Review. Their comments are applicable to the all of the outline applications and their ancillary submissions, and are therefore recorded here.

The ambition to extend the city centre is supported and the architects are commended for the clear presentation of the scheme. But the scheme responds to existing site conditions, particularly with regard to St Nicholas Arcade and the bridge link, rather than exploring potential for an at-grade crossing and the link will exacerbate the inactive frontage of the Arcade.

The retention of Edward Street and the new space at the Grand Theatre is welcomed, but a strategy for shopfront widths and entrances and use of a single focal point object in Central Square are matters worthy of further consideration.

The retailing “monoculture” could give rise to problems when shops are closed, and so an appropriate mix of uses is necessary. Large footprints could be problematic and the approach shown in the illustrative drawings showing the blocks separated into smaller units is preferred.

The location of residential development is welcomed but the blank façade of the multi-storey car park could pose qualitative problems.

Environmental sustainability should be incorporated at this stage. There is the potential, for example, for heat recovery technologies to be implemented.

In conclusion the design needs to be more contextual and responsive to this unique site and the application requires further work if it is to be granted permission.

English Heritage - Have not made separate comment regarding this application, although the loss of buildings away from the Stonewell area has been conceded. Recommends that the wider scheme be refused, on the basis that the inclusion of the bridge link will cause a level of damage to the existing townscape, character of the Conservation Area and the setting of Listed Buildings, which is unacceptable. The scheme will not replace the existing historic environment with a built form of sufficient quality to justify the demolition of buildings within the Conservation Area.

They discussed the possibility of removing the bridge link and developing the site with an ‘at-grade’ pedestrian crossing, leading to a new public open space in place of the demolished buildings at Stonewell. This option was accepted by English Heritage as potentially justifying the loss of buildings at Stonewell.

They are supportive of the aspirations of the scheme however, and if the application is approved contrary to their recommendation above then they would still wish to be involved at the Reserved Matters stage. There would still be scope for further discussion to avoid an “anytown” feel to the scheme and the roofscapes will require particularly careful treatment.

County Archaeologist - The applicants should provide a pre-determination archaeological evaluation of the site. There is insufficient information for a reasoned and informed assessment of the archaeological potential of the site. Therefore deferral is recommended.

If the local planning authorities are minded to grant permission, then a condition requiring a phased programme of archaeological evaluation will be required.

The removal of unlisted structures (of varying degrees of importance) require some level of building recording prior to demolition. They advise that a Level 2/3 recording would be required. Alteration of the listed buildings will necessitate Level 3 building recording.

The Victorian Society - The Society recommend refusal of the wider scheme and its ancillary applications. They comment that their “very strong objection” is based on the proposals being “incredibly damaging to a number of historic buildings, as well as to the character and appearance of the City Conservation Area and Moor Lane Mills Conservation Area”. They regard it as incredibly insensitive and reminiscent of comprehensive post-war city centre redevelopments and clearance.

The proposals would be over-scaled and damage views from the Priory and Castle. They would destroy the existing street pattern and the historic alleys and yards.

However the principle of development in the Canal Corridor is not opposed and it has a great deal of potential, but a “lighter touch” at the southern end of the site, and creative re-use of existing buildings would respect the area.

Council for British Archaeology - The CBA suspects that the proposals in the main may well be acceptable but would prefer to see further justification. The CBA commented last year and made a site visit on June 12th 2007. In respect of the works affecting Listed Buildings they commented that the documentary research on the built environment had been extensive, although the fabric analysis seems limited to a very basic level. The CBA would like to know more about the buildings and their additions to assess the significance and impact of the structures. The CBA believes that additions and changes of use are part of the organic growth of a building and as part of the history of the site are potentially of interest/merit.

For the Listed Building applications the CBA would prefer to see clearer justification for the demolition of buildings, such as the Musicians Co-op Building and Dance School, those with townscape merit, and those that are the evidence for the industrial archaeology of the city such as the Heron Works. The Spiritualist Church for example does have historic merit but if it causes access problems then that merit will be weighed against the benefits the scheme brings and recording in mitigation might well be the solution.

With regard to the Conservation Area applications, the CBA have concerns regarding the number of buildings in the Conservation Areas that are recognised as making positive contributions to them and are being demolished. They query whether the new access routes require such demolition. They have concerns at the loss of the Mitchells Brewery and malthouse which lie outside the Conservation Areas and the loss of the Heron Works and canalside warehouses. These historic buildings and street patterns are the physical evidence for Lancaster’s growth - much of it associated with the canal, river and railway.

The CBA would be happy to be involved during building conversion stage, should permission be forthcoming.

Council for the Protection of Rural England North West (CPRE) - Objects to the proposal on the grounds of inadequate consultation, the impact on the historic character and future development of Lancaster, the impact on the existing city centre and nearby centres, and the impact on traffic levels and associated consequences.

OTHER OBSERVATIONS RECEIVED

The observations received on 08/00866/OUT contain full details of all the objections received. These are not repeated in full here, although it should be stated that out of the individual objectors/groups who opposed the main outline application, 132 chose to object to this application too. The following grounds of objection are valid in respect of this Conservation Area Consent proposal:

- Contrary to national, regional and district planning policies and development plans (relating to historic environment);
- Impact of the pedestrian bridge upon the Conservation Area and the setting of Listed Buildings
- Value of the unlisted buildings scheduled for demolition
- Scale of replacement development is too intense in terms of scale, massing, siting

- Development should not proceed without the submission of detailed plans for the redevelopment

It's Our City Group - They have produced a detailed objection to the proposals. They state that their comments relate to all applications, but the comments that are relevant to this Conservation Area Consent submission are those detailed above.

Bulk Ward City Councillors - They have produced a detailed objection to the proposals. They state that their comments relate to all applications, but the comments that are relevant to this Conservation Area Consent submission are those detailed above.

Save Britain's Heritage - Objects in strong terms to the development of the site. Particular concerns regarding the level of demolition, the scale and footprint of the blocks, the failure to integrate the development into the historic fabric and street pattern and the impacts upon views across the city and two Conservation Areas. The existing fabric should be preserved and tied to any new development.

It urges that the lessons learned from demolition in Bath in the 1960's and 1970's are considered. Short-term economic gain would compromise long-term sustainability and a conservation-led approach should be adopted.

REPORT

Introduction and Procedural Matters

This is the Conservation Area Consent application for the demolition of the existing properties known as 133-139 St Leonardgate, 1-5 Stonewell, 3-7 Moor Lane and all of the ancillary structures.

This application is recommended for approval. However, in the event that the main outline application, 08/00866/OUT, is refused consent, then the recommendation for this individual Conservation Area Consent application would be reversed and our recommendation would be refusal. This would be on the basis that there would be no permitted proposals for the wider redevelopment of the site, which justify the works of alteration and demolition.

The Site and its Surroundings

These properties to the west of the wider Canal Corridor North site are designated Key Townscape Features within the City Conservation Area. None of the buildings scheduled for demolition here are Listed Buildings. However because the works comprise demolition within a Conservation Area, consent is required.

The buildings vary in terms of style, date and use and are best summarised in the following table:

Property	Date	Current (or previous) Use, Features and Condition
133-139 St Leonard's Gate	Early/Mid 19 th century, part of façade possibly rebuilt early 20 th century	<p>A3/A5 mixed use – Restaurant & Takeaway A3 – Restaurant A1 Shop (Hairdressers) A1 Shop (Hearing Centre Shop)</p> <p>Stone slate roofing to the rear is unusual in Lancaster</p> <p>Evidence of tile slippage and some roof sagging to 133, 135 and 137. Rear areas of 133 are identified as dangerous structures with entrance prohibited. Chimneys may require demolition at 137 and 139. Structures at 135-139 are generally sound otherwise.</p>

Property	Date	Current (or previous) Use, Features and Condition
1-5 Stonewell	<p><i>These are replacement buildings. Much earlier buildings were constructed here – maps of 1610 & 1684 show buildings in this location.</i></p> <p><i>Number 2 is 18th century whilst the remainder are later 19th Century</i></p>	<p><i>A1 – Shop (Windows Shop) Sui Generis Use – (Launderette) A1 – Shop (Post Office) Sui Generis – Amusement Arcade</i></p> <p><i>Mansard roof to Number 1 is not a local characteristic There are no cellars to these properties and therefore archaeological remains could be of interest</i></p> <p><i>Number 1 is in good condition. Number 2 is in poor condition with evidence of structural movement and severe roof sagging Number 3 has a poor shop frontage and there is some evidence of historical structural movement Numbers 4 and 5 are structurally sound, although there is evidence of historical structural movement</i></p> <p><i>A series of structurally unsafe buildings adjoin Stonewell/Moor Lane to the rear in the courtyard – Swan Court – and internal access is not possible.</i></p>
3-7 Moor Lane	<p><i>These are replacement buildings. Much earlier buildings were constructed here – maps of 1610 & 1684 show buildings in this location.</i></p> <p><i>The current building s date to the later part of the 19th Century</i></p>	<p><i>A1 – Shop (Telecommunications) A1 – Shop (Newsagents and Funeral Directors)</i></p> <p><i>There are no cellars to these properties and therefore archaeological remains could be of interest</i></p> <p><i>Number 3 is structurally sound although in generally poor condition 5 and 7 are in good condition with re-roofing having occurred.</i></p>
Gee's Court Flat (rear of 7 Moor Lane)	<i>Date not known</i>	<p><i>C3 - Residential</i></p> <p><i>A former warehouse converted to residential accommodation</i></p> <p><i>Good condition although outlook given its backland location is poor</i></p>

It is recognised that some of the upper floors above the commercial uses are also utilised residentially.

Planning Policy

Planning Policy Guidance (PPG) Note 15 - 'Planning and the Historic Environment' sets the national context for determining applications affecting heritage assets.

When considering such applications, the local planning authority must have regard to the desirability of preserving the building or its setting or any features of architectural or historic interest that it possesses.

Although the proposal does not relate to demolition of a Listed Building, the national tests for alterations, extensions and demolition are relevant because the works affect the setting of such a building.

In relation to such applications, the following issues are relevant:

- The importance of the building, its intrinsic architectural and historic interest and rarity;
- The physical features of the building justifying its inclusion on the list;
- The building's setting and its contribution to the local scene, or where it shares particular architectural forms or details with other buildings nearby;
- The extent to which the proposed works would bring substantial benefits for the community, in particular by contributing to the economic and regeneration of the area or the enhancement of its environment.

PPG 15 provides advice regarding Conservation Areas, and this site occupies a position within such an area. Local planning authorities have to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area, and this also applies to proposals that are outside a Conservation Area but would affect its setting, or affect views into or out from such an area. Account should be taken of the architectural/historic interest of the area and the wider effects of demolition on the building's surroundings and on the Conservation Area as a whole. The general presumption should be in favour of retaining buildings that make a positive contribution.

Consent for demolition should not be given unless the detailed plans for any redevelopment are acceptable. For this reason, determination of the Listed Building Consent and Conservation Area Consent applications can only be determined following consideration of the main outline application for the Canal Corridor North site (Ref: 08/00866/OUT) .

At the time of drafting this report the Regional Spatial Strategy (RSS) had not been formally adopted, and so this report continues to refer to the Joint Lancashire Structure Plan (JLSP). If the Regional Spatial Strategy is adopted between now and the committee presentation, then a verbal update will be provided for Members.

Policy 20 of the JLSP refers to 'Lancashire's Landscapes' and advises local planning authorities to assess proposals in relation to a number of matters, including:

- The quality and character of the built fabric;
- Historic patterns and attributes of the landscape;
- The layout and scale of buildings and designed spaces.

Policy 21 of the JLSP relates to 'Lancashire's Natural & Man-Made Heritage' and seeks to protect sites of heritage importance, whilst advising that positive opportunities to conserve, manage or enhance heritage resources should be explored. The rationale for the policy is that there should be no net loss of heritage value.

The Council's adopted Core Strategy forms part of the Local Development Framework, which will eventually replace the LDLP. The Strategy contains a number of generic policies and ambitions for the district. The Policy most relevant to this proposal is Policy E1 - 'Environmental Capital' - which seeks to protect and enhance Listed Buildings and Conservation Areas.

Policy SC5 - 'Achieving Quality in Design' - is also relevant in that it encourages a high-quality environment and public realm.

The Lancaster District Local Plan (LDLP) is still relevant and contains specific policies which influence proposals of this nature. They are as follows:

- Policy **E32** - Demolition - Demolition of all or part of a Listed Building will only be permitted where the applicant demonstrates that rehabilitation is impracticable. Exceptionally, demolition may be permitted where redevelopment would produce substantial benefits for the community that would decisively outweigh the loss;
- **E33** - Alterations and Extensions - Alterations or extensions that would have an adverse effect on the special architectural or historic character or the interest of the buildings or their surroundings will not be permitted;
- **E35** - Conservation Areas and their Surroundings - Development which adversely affects important views into or across a Conservation Area, or leads to an erosion of character and setting will not be permitted;
- **E37** - Demolition (in Conservation Areas) -The total or substantial demolition of an unlisted building will only be permitted where it does not make a positive contribution to the architectural or historic interest of a Conservation Area. Exceptionally demolition of a building which does positively contribute will be permitted if reasonable attempts to rehabilitate the building have been made, or redevelopment would produce substantial benefits for the community which would outweigh the loss. Demolition will only be approved where detailed planning permission for a scheme of redevelopment has been given;
- **E38** - New Building in Conservation Areas - Development must reflect the scale and style of the buildings and locality;
- **E39** - Alterations and Extensions (in Conservation Areas) - Alterations will be permitted where important features are not lost and where the proposal is sympathetic to the character of the building and the locality.

The LDLP does not contain a policy on preserving the setting of Listed Buildings, but commentary is provided at paragraph 5.7.14 which advises that such buildings should be protected from harmful development.

Supplementary Planning Guidance Note 8 (SPG 8) is the Development Brief for the site and was adopted in May 2002. Amongst key objectives for the site as a whole were the following:

- An attractive entrance to the city and a seamless join between the commercial areas and residential areas of Lancaster;
- Sensitive integration of new buildings within the existing historic fabric, using high-quality designs, local styles and materials and reusing materials and features from demolished buildings where possible;
- Landmark, high-quality, mixed use development;
- The accommodation of any new retail development close to the existing centre with the best possible pedestrian links

A key concern was the “impact of development proposals on the area’s Listed Buildings and Conservation Areas” and the “safeguarding of the area’s cultural heritage”.

Principles of development in this particular location included:

- A comprehensive development of the whole site;

- A high density of development making efficient use of the land;
- The incorporation, where possible, of the under-used frontages on St Leonard's Gate, Stonewell, Moor Lane, Swan Yard and the former Tramway Pub and adjacent buildings;
- A pedestrian and cycle-friendly environment between the site and St Nicholas Arcade and Church Street. The possibility is a level pedestrian bridge across Stonewell linking into the St Nicholas Centre is referred to in Paragraph 6.12 of SPG 8.

In addition SPG 6 - The City Centre Strategy - is also applicable and seeks to improve the relationship between the centre and surrounding residential areas, achieve a varied townscape with distinctive quarters, including a cultural quarter in the general locality, and rationalise the car parks in and around the site. One of the design challenges posed referred to the need to integrate new development into historic street frontages with an intimate and varied character.

Impact upon Heritage Assets

The fact that this group of buildings comprise Key Townscape Features is beyond question. They also contribute to the Conservation Area, despite the fact that a number of them are in poor condition and that most of them have been significantly altered over time.

It would be possible to refurbish the buildings in need of repair and improve their visual appearance, albeit at a considerable cost.

The retail and economic case for demolition is discussed in the 08/00866/OUT report, but it is relevant to briefly refer to these matters because PPG 15 discusses the benefits of regeneration and benefits for the community.

At the crux of the retail is the issue of scheme viability, if the buildings at the Stonewell 'nose' of the site were retained.

The main report answers this unequivocally. The Council's independent retail consultants, White Young Green, estimate that a direct, at-grade link needs to be provided between the existing city centre at St Nicholas Arcade and the development site. Without such a link, they calculate that approximately three-quarters of all visitors to the Canal Corridor 'Castle View' scheme would remain within the site only, and not visit the existing city centre retail areas. This would be economically damaging to the historic core of the city.

There are strong economic arguments for enhancing the retail offer in Lancaster, and these are discussed in detail in the 08/00866/OUT report. There are also convincing physical and social cases to be made - the proposal makes more efficient use of the site for car parking, provides new green space, provides new access to the Lancaster Canal and delivers new residential uses to the east of the site. In addition financial contributions to the cultural assets within the site, most notably The Grand Theatre and The Dukes Theatre, and the provision of new premises for the Musician's Co-Operative, are beneficial to the wider community of the city, and indeed the district.

Furthermore, the content of the North West Regional Development Agency and English Heritage's report - 'Historic Towns and Cities in England's North West' - advises that Lancaster should exploit opportunities to realise its tourist potential as a "Georgian Gem". The heritage of the city should be "a backdrop to a stylish and distinctive retail and leisure activity".

As part of its study the report advises that the built form of the city should be reviewed and new development of the highest modern architectural quality within the city centre "expansion area" should form the anchor point to both the new Canalside Quarter and the city's retail core.

This study therefore indicated that heritage alone would not be sufficient to expand on the city's tourism potential.

Application 08/00866/OUT also discusses that the loss of unlisted buildings within the Conservation Area against the relevant policy criteria, and the 'preserve or enhance' tests. This debate centres upon English Heritage's (and other heritage and conservation group's) objections to the scheme.

One matter not addressed by the applicant is the future of two of the important site features within this location. The Moor Lane corner contains a historic plaque (in recognition of the inventor of railway tickets). There is also a date stone of 1701 to the rear of these properties. This date stone is likely to have been salvaged from previous demolitions in the Swan Yard locality - the original building from 1701 no longer exists. If permission is granted then a condition would be imposed requiring the safe storage and retention (within the scheme) of these features.

Heritage & Townscape - Objections

The proposals have been the subject of debate and productive discussion between the Development Team and English Heritage. In addition groups such as The Victorian Society and Save Britain's Heritage have also made comment. Many public objectors have referred to similar townscape and heritage concerns, and have made comment that demolition of the Key Townscape Features described in the above sections of this report renders the proposal as non-compliant with planning policies.

There are two different levels of opposition.

The strongest objections arise from 'Save Britain's Heritage', whose objection letter considers the proposal to be "clumsy, over-scaled, insensitive and destructive", and detrimental to views from Conservation Areas and the setting of Listed Buildings. They state that the loss of the Key Townscape Features results in the Listed Buildings losing their context. The bridge is also deemed to "degrade the streetscape" and the new spaces do not respond to the existing spaces in Lancaster.

The Victorian Society have similar comments and object on strong terms, stating that the development would be "incredibly damaging" to a number of historic buildings and Conservation Areas, and the street pattern of the city. The scale and roofscape of the new structures is also described as potentially damaging.

The Society is "keen for the Brewery complex, former warehouses and Heron Works buildings to be retained" in the interests of individuality. The principle of development across the site is accepted, but the Society would prefer to see more intensive development taking place to the north (i.e. further away from the centre).

Both letters refer to previous retail developments in the 1950's and 1960's which blighted town and city centres.

It is envisaged that the Georgian Group will also make comment on the proposals but that due to agenda production timescales this will be verbally reported.

The Government's advisor on architecture, urban design and public spaces - the Commission for the Built Environment (CABE) also made comment just prior to the committee deadline.

CABE are supportive of the ambition of the scheme and the reconnectedness it would provide, but they believe that further work is required to integrate the development within the city and to resolve the permeability problems caused by St Nicholas Arcades. They remain to be convinced by the pedestrian bridge, and state that a new public space here could be a new focal point.

Other proposals are considered to be sound, such as the principle of placing new blocks behind existing buildings. New spaces such as that proposed at St Anne's Square are welcomed, but CABE believe

integration across from here to St Leonard's Gate could be considered. Other suggestions, such as a Shopfront Widths strategy, are proposed whilst renewable energy technologies are encouraged. But the final point is that CABI believe that the Stonewell area should be rethought.

The comments from CABI are, as expected, more conciliatory than those of the preservation societies. However CABI's comments are not dissimilar to those expressed by the Government's historic environment advisor, English Heritage.

There are also significant differences between English Heritage's objections in July 2007 and September 2008. These have been resolved with the introduction of the amendments to the scheme. For clarity, the matters that English Heritage state as now being satisfactorily addressed are as follows:

- The replacement of the fine urban grain with monolithic blocks;
- The rigid grid pattern;
- The heights of buildings;
- Building typologies and roofscapes;
- Lack of after-hours vitality;
- The alignment of Central Street.

English Heritage "acknowledges the effort and commitment of the design team in addressing these (above) matters and they believe that the scheme has benefited considerably as a result of this". They continue by supporting "the aspirations of the scheme to extend the city as far as the canal with retail-led redevelopment; to reanimate the canalside; to remove the surface level parking which has occupied gap sites in a haphazard manner; and the retention of statutorily protected buildings".

But there is still objection to elements within the scheme. They "regret the loss of historic buildings both within and without the Conservation Area" and are "disappointed that a scheme based upon the adaptive reuse of these buildings rather than demolition has not been forthcoming".

The next sentence is quite critical. It says that "On the basis of the information provided however, we reluctantly accept that it would not be possible to deliver the type of scheme proposed while retaining all of these structures...For the most part we find the justification for demolition put forward in the PPG 15 Assessment and other documentation convincing, and albeit with regret, we concede the loss of many of these buildings'. These include the Mitchell's brewery and malthouse and the buildings adjacent to the Canal.

The exceptions to this concession are the Key Townscape Features around the Stonewell 'nose'. Adjoining buildings here are listed and collectively English Heritage they "contribute to the sense of place at the heart of the Conservation Area". English Heritage continue by saying that the proposals will "clearly not preserve the character of the Conservation Area" and that it is the applicant's responsibility to demonstrate that the scheme will enhance it. This is elaborated further in the next section.

They acknowledge the reasons for connectivity between the two sites, but are "strongly opposed" to the bridge link. They describe St Nicholas Arcades as "one of the weakest elements of Lancaster" and the proposals would exacerbate this, rather than improve the inactive frontages at the external elevations of St Nicholas Arcades.

The bridge is also cited for cutting across the front elevation of the listed Centenary Church and across views down Moor Lane, "damaging an important asset of the Conservation Area".

They asked the applicant to consider at-grade crossings, similar to those in Kensington High Street or at Sheffield Railway Station. English Heritage also commissioned an investigation into pedestrian numbers and traffic flow, with the outcome being that increased pedestrian numbers (as a consequence of site redevelopment for the purposes proposed) could be accommodated by the inclusion of modern crossing technology, with “no significant delay to traffic”. But this would have to provide sufficient capacity for the increased pedestrians.

To resolve the issue of capacity English Heritage “suggested that the demolition of the unlisted (Key Townscape) buildings at Stonewell could be offset by the creation of a new public space that provides an entrance to the new development and a waiting area for pedestrians crossing at grade, and changes the relation between vehicles and pedestrians”.

In the absence of this satisfactory alternative, English Heritage object on the grounds that the “bridge link will cause a level of damage to the existing townscape, character of the Conservation Area and the setting of Listed Buildings that is unacceptable. The scheme will not replace the existing historic environment with a built form of sufficient quality to justify the demolition of buildings within the Conservation Area”.

It is fair to say that English Heritage's original position in 2007 was more in accordance with the comments of Save Britain's Heritage and The Victorian Society, and perhaps justifiably so. But the amendments to the scheme have narrowed their objections down to the principle of the bridge link and the design solution at proposed at Stonewell.

The Preserve or Enhance tests

A significant challenge for the development is how to integrate it to the historic part of the city, and re-establish former connectivity. The option chosen is a new pedestrian bridge link and, due to highway requirements, this has to be at a relatively high level above Stonewell. The bridge, in the opinion of the local planning authority, is a functional necessity providing physical linkage between the existing city centre and the new development. That linkage, again in the view of the local planning authority, cannot be achieved by crossings at grade across a busy highway which is unlikely to see reduced traffic volumes in the future.

Of separate consideration is the impact that the bridge will have on the Conservation Area and the surrounding buildings.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a general duty on local authorities in exercising planning functions in Conservation Areas. It requires that in exercising functions such as determining planning applications, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

There have been various cases which have interpreted this requirement over the years. In the seminal case of *South Lakeland v Secretary of State for the Environment* the House of Lords ruled that preserving the character or appearance of a Conservation Area could be achieved not only by a positive contribution to preservation (such as restoring existing buildings), but also by development which left the character or appearance of the conservation area unharmed. This means that new development of an appropriate design and raising no other planning objections could still be found to pass the preserve test.

Following the publication of PPS 1 there has been considerable debate as to how to interpret the Conservation Area test in the light of paragraph 32 of PPS 1, which discusses the spatial planning framework. That has been resolved in a publication entitled ‘Design Guidance for Inspectors’ published by the Planning Inspectorate in late 2007. In that guidance it is indicated that if the quality of an area is already high, then the policy test of PPS 1 is met if the test under Section 72 is also met. There has however been a regrettable misapprehension that the approach in all cases should be to ‘enhance’ rather than to merely ‘preserve’ the character or appearance of the Conservation Area.

English Heritage, in their letter of objection, agree that for the most part the justification for demolition of buildings on the site is convincing and as previously stated, concede the loss of many of the existing buildings with the exception of the buildings grouped around the Stonewell nose. English Heritage's view is that these adjoin buildings which are listed and collectively they contribute to the sense of place at the heart of the conservation area. Accordingly they take the view that the proposals for their removal will clearly not preserve the character of the conservation area, and state that the onus is therefore placed upon the applicant to demonstrate that the scheme will enhance it.

In addressing the enhancement test English Heritage make it clear that it is the bridge link between the development and St Nicholas Arcades which restrains them from agreeing that the scheme enhances the Conservation Area. Without the bridge English Heritage has suggested that the demolition of the unlisted buildings at Stonewell could be off-set by the creation of a new public space. It appears therefore that their stance is that the development would not preserve the character or appearance of the Conservation Area, but if the bridge link were removed it might enhance them.

Given the debate, the local planning authority sought the view of its counsel, and they concluded that their approach is flawed. The question is whether the development overall would preserve the character or appearance of the area and not whether the special character or appearance would change. 'Preserve' is not to be given the meaning of 'leaving unchanged' - that was precisely the argument that was rejected in the South Lakeland case. The approach of English Heritage appears to be that where there is proposed to be a change in character there cannot be 'preservation' and therefore the obligation is for 'enhancement'. The advice of counsel is that were the Council to adopt this approach, it would be acting beyond its powers under Section 72.

In addressing the enhancement test English Heritage make it clear that it is the bridge link between the development and St Nicholas Arcade which restrains them from agreeing that the scheme enhances the Conservation Area. Without the bridge English Heritage has suggested that the demolition of the unlisted buildings at Stonewell could be off-set by the creation of a new public space. It appears therefore that their stance is that the development would not preserve the character or appearance of the Conservation Area, but if the bridge link were removed it might enhance it.

Taking English Heritage's advice in the context of the South Lakeland decision they concede that the demolition of the Stonewell Buildings and their replacement by the scheme as designed would be acceptable if the design did not include the link bridge. Although English Heritage suggest that the scheme does not preserve the character of the Conservation Area, the concession made about the creation of a new public space means that without the bridge they agree that the scheme would meet the statutory test. Applying the correct approach of the South Lakeland case this can only be an acceptance that the proposed development does preserve the Conservation Area.

It seems clear therefore that it is the bridge which is the only contentious issue, not the principle of the demolition of the buildings on Stonewell.

In deciding whether or not the development in its full form, with the link bridge included, enhances the Conservation Area, the Council has to consider whether the bridge link is just an essential functional feature which links the development with the existing city centre, or whether it is also a valuable and acceptable architectural feature to be added to the Conservation Area.

The Planning Service has asked the developers to provide clear concept design details for the bridge, and have also examined a recent bridge structure constructed in the New Town Conservation Area off Princess Street in Edinburgh. It is clear from the Edinburgh case that the construction of new bridge structures in historic Georgian cities can be accommodated without causing harm to the character and appearance of a Conservation Area.

The concept designs for the bridge link show a simple sleek structure across the carriageway which in your officers view would sit well with the contemporary design of the "nose" of the development. In

addition it would act as an exciting feature above, and framing the new public space. It is also noted that the bridge does not dominate the enlarged Moor Lane area created by the proposals. Instead, the bridge position is shown closer to St Leonard's Gate, and the structure is relatively narrow in span, with ample space for enhanced public realm, landscaping and high-quality features within the redeveloped pedestrian areas and the gateway to the site.

The bridge connects to Block B01. Its connection with Block B14 is so far recessed into the site that this building will be viewed as a feature building which stands independent of the bridge. The design options for Block B14 are shown indicatively in perspective drawings, and although the final design option is a Reserved Matter, the approach is encouraging and reflective of a similar modern design in the retail heart of York City Centre which has been lauded by the national heritage groups.

In this regard the local planning authority does not agree with English Heritage. It is our view that the bridge would form an exciting addition and a lively element to the street scene in this location. In this regard the bridge is considered to be an enhancing feature.

Taken as a whole the development brings a street layout and design concept to the city which is capable of blending elements of traditional and contemporary architecture together in an urban design which is equally capable of respecting the architecture and character of the City of Lancaster. The conclusion is that the scheme will both preserve and in some respects enhance the character and appearance of the Conservation Area and that the test required by Section 72 is satisfied. Consequently, the proposal is also deemed to comply with the relevant District Planning Policies.

Other options were considered by the applicant in response to English Heritage's suggestions. This included retaining the buildings and providing a level pedestrian access on Moor Lane. Again the separation of the two sites, caused by the gyratory and the fact that St Nicholas Arcades has no 'active' frontage to entice shoppers from the Castle View site, means that the economic arguments for providing a bridge link are persuasive.

Conclusion

It is noted that Policy E37 of the LDLP relating to demolition in Conservation Areas, is more onerous than the national guidance contained in PPG 15. But as the applicant indicates, the use of outline applications for achieving new development within Conservation Areas involving demolition is a well-established method of delivering town centre regeneration. Here, the parameters-based approach provided by the applicant and the level of detail provided in the supporting studies is deemed sufficient to afford assurance that the detailed scheme can be satisfactorily accommodated within the wider site.

Therefore, given the safeguard of the conditions included in the recommendation, including a condition stipulating that no demolition could occur without the grant of Reserved Matters and without a construction contract for the replacement buildings and features being in place.

Taking into account the conclusions regarding the preserve or enhance tests, the community benefits that would ensue as a result of the improved accessibility to a mix of uses and integration of the development site within the city centre once again, the indicative proposals for high-quality replacement structures, and the reduction of parameter levels at this end of the site for the replacement buildings, the development is considered appropriate subject to the granting of application 08/00866/OUT.

HUMAN RIGHTS ACT

This application has to be considered in relation to the provisions of the Human Rights Act, in particular Article 8 (privacy/family life) and Article 1 of the First Protocol (protection of property). Having regard to the principles of proportionality, it has been concluded that there are no issues arising from the proposal which appear to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

RECOMMENDATIONS

That **CONSERVATION AREA CONSENT BE GRANTED**, subject to the approval of outline planning application 08/00866/OUT, and subject to the following conditions:

1. Standard Conservation Area Consent
2. Development as per approved plans
3. No demolition shall commence until the Reserved Matters has been approved for the wider site development and a contract for the construction of replacement consented buildings is in place
4. No demolition or works of site clearance to commence until a scheme for the adequate storage (during demolition) and reuse (within the site) of the historic lintel stone, (including door opening and quoins) and the Moor Lane plaque has been agreed. Development to accord with these details.
5. Programme of demolition to be agreed and subsequently implemented and shall include the following measures:
 - (i) The making good of damaged stonework and recesses in salvaged sandstone masonry;
 - (ii) The cleaning of the exposed masonry walls by an approved method;
 - (iii) Repointing of the masonry walls, including agreement of the method of cutting out of joints, the mortar specification and finishing;
 - (iv) An audit of materials on site shall be undertaken and where feasible these materials shall be reused on other parts of the wider development.
6. A Level 2-3 archaeological recording of the buildings shall be undertaken
7. As required by consultees