

Agenda Item A9	Committee Date 11 th January 2016	Application Number 15/01282/OUT
Application Site Land North Of New Quay Road Lancaster Lancashire		Proposal Outline application for the erection of up to 14 dwellings
Name of Applicant Lancaster Port Commissioners		Name of Agent Mr Rob Moore
Decision Target Date 14 th January 2016		Reason For Delay NA
Case Officer		Mr Mark Potts
Departure		No
Summary of Recommendation		Refusal

1.0 The Site and its Surroundings

- 1.1 The site is located 1.5 km to the north west of Lancaster City Centre, with the development site amounting to 0.6 hectares, the site is bound by a flood defence wall to the north, east and west with the site predominately scrub habitat. The site was previously used as a former quay for the then former Lune Mills Linoleum Works (which has been redeveloped for housing). The site is relatively level at 6.7 metres AOD.
- 1.2 To the north of the development is New Quay Road, beyond which are a number of recently constructed properties currently being built out by Barrett and Redrow Homes (Luneside West). The River Lune is immediately to the north of the site. Access to the development would be off New Quay Road.
- 1.3 There is a rising mains sewer that crosses the site together with an 8 metre easement adjacent to the flood defence wall. The entire site lies within Flood Zones 2 and 3, albeit in an area that benefits from flood defences. Public Right of Way Number 27 is located to the west of the proposed development and the River Lune is designated as a Biological Heritage Site (circa 12 metres to the north of the proposal). The site is unallocated in the adopted Local Plan.

2.0 The Proposal

- 2.1 The proposed development consists of the erection of up to 14 units (Use Class C3). The application is in outline, with all matters reserved for future consideration. An illustrative layout has been supplied in support of the application which consist of a mix of detached and terraced housing with all the units being 2.5 storeys high and approximately 13 metres to the ridge height.
- 2.2 This application is only seeking the principle of development and therefore should the scheme be approved by Committee the detail will be considered as part of a reserved matters application.

3.0 Site History

3.1 There is no relevant history, however the site was used as a former quay for the former Lune Mills Linoleum Works.

4.0 Consultation Responses

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

Consultee	Response
Environment Agency	Objection , on the basis that the development is within 8 metres of a flood defence and that the proposed development would restrict essential maintenance and emergency access to the defences.
County Highways	No objection , recommend conditions associated with bringing the footway along the sites frontage to an adoptable standard.
Dynamo (Lancaster and District Cycle Campaign)	Objection , on the basis that the driveways cross a shared cycleway/pathway and will present a risk to passing cyclists and pedestrians.
Environmental Health	No comments received within the statutory timescales.
Contaminated Land Officer	No objection however recommends further site investigation.
Conservation Officer	No objection , however the site is a non-designated heritage asset.
Lead Local Flood Authority	Objection on the basis that the development proposal does not contain detail about how the surface water and potential flood water will be attenuated on site and lacks detail on how flood flow routes through the site from surface water will be managed.
United Utilities	No objection , however have raised concern regarding a 750mm public combined rising main/pressurized sewer crossing the site, recommended conditions associated with foul and surface water
Public Realm Officer	No objection , requests £27,100 for an off-site contribution and 255m ² on site open space.
Lancaster Civic Society	Objection , the land is not appropriate for housing.
Planning Policy	In the absence of a sequential test (given the site is within a flood risk area) it is not possible to conclude whether the proposal is acceptable at this moment in time.
Greater Manchester Ecology Unit	No objection , and concurs with the ecological appraisal that there will be no significant ecological constraints associated with the site. Recommends conditions and informative notes.
County Ecologist	No observations received within the timescales.
Strategic Housing Officer	No comments received within the timescales.
Natural England	No comments received within the statutory timescales
Ramblers Association	Objection , the English Coastal trail is likely to pass along the river bank, the exact route will be understood in 2016.
Lancashire Police	No objection , however recommends secured by design standards should be employed at reserved matters stage.
Public Rights of Way Officer	No observations received within the statutory timescales

5.0 Neighbour Representations

5.1 To date there has been 49 letters of objection in relation to the application with 1 neutral. The latter, neither, supporting or objecting to the development was on the basis of wishing to see the narrow gauge railway tracks remain. The reasons for objection are noted below;

- Loss of view (not a planning consideration);
- Premium Price paid for properties along New Quay Road (not a planning consideration);

- Concerns of flooding, surface water drainage and the potential impact on the flood defence wall;
- The size of the site is not sufficient to accommodate the number of dwellings proposed;
- Loss of the narrow Gauge railway;
- Detrimental Impact on the cycleway that passes the site;
- Visually overbearing to the adjacent properties and loss of amenity;
- Traffic safety concerns;
- Adverse impacts on nature and environmental conservation;
- Loss of an important Green Corridor;
- Alternative use as a place for reflection and nature study area should be considered;
- Existing Infrastructure is insufficient to accommodate the development;
- Loss of Maritime and Historic Heritage;
- Noise and Light disturbance;
- Development is not in keeping with the frontage along the River Lune;
- Detrimental Impact on the designated pathway (National Cycle Route 6);
- Design concerns;
- Information in relation to ecology has not been uploaded correctly;
- Development is not in conformance with the Development Plan or National Planning Policy;
- Will require to use the drainage implemented by Barratt's.

Councillor Jon Barry has objected to the development on the basis of interference with the cycle way and that the area would lend itself better to an area of open space, and the development would be detrimental to the area.

Barratt Homes have objected to the development based on the objections raised by the Environment Agency and Lancaster City Councils Planning Policy Team.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework (NPPF)

Paragraphs 7, 12, 14 and 17 - Sustainable Development and Core Principles
 Paragraph 32, 34 and 38 Access and Transport
 Paragraphs 49, 50 and 55 - Delivering Housing
 Paragraphs 56, 58, 60, 61 and 64 – Requiring Good Design
 Paragraphs 69,70, 72 and 73 – Promoting Healthy Communities
 Paragraph 103 – Flooding
 Paragraphs 109, 115,117,118 – Conserving the Natural Environment
 Paragraphs 128-134 – Conserving and Enhancing the Historic Environment
 Paragraph 173 – Deliverability
 Paragraphs 186, 187, 196, 197, 203-206 – Decision-taking

6.2 Lancaster District Core Strategy (adopted July 2008)

SC1 – Sustainable Development
 SC4 – Meeting the District's Housing Requirements
 SC7 – Development and the Risk of Flooding
 E1 – Environmental Capital

6.3 Lancaster District Local Plan - saved policies (adopted 2004)

T24 – Strategic Cycle Network
 E30 – Green Corridors

6.4 Development Management DPD

DM20 – Enhancing Accessibility and Transport Linkages
 DM21 – Walking and Cycling
 DM22 – Vehicle Parking Provision
 DM26 – Open Space, Sports and Recreational Facilities
 DM27 – Protection and Enhancement of Biodiversity

DM28 – Development and Landscape Impact
DM29 – Protection of Trees, Hedgerows and Woodland
DM32 – The Setting of Designated Heritage Assets
DM33 – The Setting of Non-Designated Heritage Assets
DM35 – Key Design Principles
DM38 – Development and Flood Risk
DM39 – Surface Water Run-off and Sustainable Drainage
DM41 – New Residential dwellings

7.0 Comment and Analysis

7.0.1 There are a number of considerations with respect to the application which include;

- Principle of Development;
- Flooding;
- Surface Water Drainage;
- Flood Defences;
- Highways;
- Design and Layout;
- Drainage Infrastructure;
- Affordable Housing;
- Air Quality;
- Heritage;
- Ecology.

7.1 Principal of Development

7.1.1 Whilst the site is unallocated for development the site is located within the main urban area of Lancaster and therefore it is a location where the Council would, in principle, support residential development. The most recent housing land supply and delivery position for the district is described in the 2015 Housing Land Monitoring Report (HLMR) and accompanying Housing Land Supply Statement 2015. This has a base date of the 1st April 2015. Allowing for existing commitment and past housing completions, the requirement for a 20% NPPF buffer and the Sedgefield methodology for calculating future supply the Housing Land Supply Statement identifies a five year supply position of 3.4 years against its adopted housing requirement of 400 dwellings per annum.

7.1.2 Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development. It goes on to say that Local Planning Authorities (LPA) should approve development proposals that accord with the development plan without delay, and that where a development plan is absent, silent or relevant policies are out-of-date the LPA should grant permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole: or
- Specific policies in this Framework indicate development should be restricted.

As a consequence there is a clear expectation that unless material considerations imply otherwise sites that offer the opportunity for housing delivery should be considered favourably. Notwithstanding this the site has been assessed as part of the Council's SHLAA (Site SHLAA_266) and has been found to be undeliverable for housing (reflecting the high flood risk) and coupled with this, the site would need to be considered as part of the wider regeneration proposals in the Luneside Area. On the basis of the above it is considered that the current application is contrary to the adopted plan, for the following reasons.

7.2 Flooding

7.2.1 The site falls within Flood Zone 3 which is defined as having a high probability of flooding, albeit it is protected by a flood defence which gives protection for a 1 in 500 year flood event, providing a crest level of 8.11 metres. Notwithstanding this, given the location of the proposed scheme, a Sequential Test is required to assess whether more appropriate locations exist which are in areas which are at lower risk of flooding. The need and importance of the Sequential Test is set out in paragraph 101 of the National Planning Policy Framework (NPPF) which states that 'The aim of the

Sequential Test is to steer new development to areas with the lowest probability of flooding. *Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development with a lower probability of flooding.* The NPPG is clear in paragraph 33 that for individual planning applications where there has been no previous sequential testing via the local development plan that a Sequential Test will be required. If it is not possible for the development to be located in zones with a lower probability of flooding, the Exception Test should be applied. For this to be passed, it must be demonstrated that: the development provides wider sustainability benefits to the community that outweigh flood risk; and that it will be safe for its lifetime taking account of the vulnerability of its users, without increasing use elsewhere, and, where possible, will reduce flood risk overall.

7.2.2 The applicant was made aware of the need for a sequential assessment early in the application process however one has not been forthcoming to establish whether there are more acceptable sites in Flood Zones 1 and 2. Given no assessment has been carried out, it is considered that there are likely to be many locations within the District which are outside Flood Zones 2 and 3 and it is unlikely that there would not be reasonably available sites elsewhere at a lower risk of flooding which could accommodate the proposed development. In the absence of a robust assessment it is considered that residential development is unacceptable on this site and therefore contrary to Policy DM38 of the DM DPD.

7.3 Surface Water Drainage

7.3.1 The application is accompanied by a Flood Risk Assessment, however the Lead Local Flood Authority have objected to the development on the basis that the proposal has no detail on how the surface water and potential flood water will be attenuated on site and lacks detail on how flood flow routes will traverse through the site from surface water. Whilst accepting that the application is made in outline form, this form of permission does establish the principle of the development, and as such in the absence of such information it is considered that the proposal has the potential to increase surface water in the locale therefore potentially leading to flooding issues, and consequently further information is required from the applicant to address these concerns. Given this it is considered that the scheme is contrary to Policy DM39 of the DM DPD.

7.4 Flood Defences

7.4.1 The Environment Agency have objected to the development on the basis that the proposal involves developing within 8 metres of a flood defence and would restrict essential maintenance and emergency access to the defences. The indicative plan currently provides for all garden spaces to be within the 8 metre easement. It is essential that there is access for maintenance purposes, and whilst permitted development rights could be removed, there would still need to be some form of boundary treatments between the units to ensure privacy for people utilising their gardens, and therefore on the face of it the two would appear at odds with one-another, leading to questions as to whether private gardens could actually be developed on the site. Whilst it may be possible, there is no confidence as matters stand as to how this would be delivered. It is therefore considered that the scheme has the potential to adversely impact on the flood defence purposes therefore contrary to the provisions of Policy DM38 of the DM DPD.

7.5 Highways

7.5.1 There has been local concern regarding the capacity of the local highway network to accommodate additional vehicles and more so in relation with the conflict with cycle users and pedestrians who use the footway in front of the site to cycle and walk along. With respect to highways, the County Council raise no objection to the scheme subject to conditions namely concerning the 2 metre footway along the frontage of New Quay road to tie into the existing footway, together with 4.5 metre wide dropped crossing. It is therefore considered that the site can accommodate this number of units proposed and given the County have raised no issue with highway capacity then the development is acceptable from this perspective. The County have not raised concern that the development is adjacent to the National Cycle Route which is Route 6 (Preston to Lancaster).

7.5.2 A number of the representations received in response to the application have raised concern regarding conflict between pedestrians and cyclists who utilise the footway to the front of the site. From a review of online maps it would appear that the official route utilises the road, however makes logical sense why cyclists have been using the footway in front of the site. The land in question is

not currently adopted. Through further discussions with County Highways and their Senior Cycling Officer it has been concluded that there is a slight risk but this risk can be reduced by ensuring the development is as open plan as possible, and does not consider that parking across the pavement would be of huge concern given it is well used by cyclists and pedestrians. Whilst not requested by the County, additional signage could be provided and this can be addressed by means of planning condition should a scheme be supported.

7.6 Design and Layout

7.6.1 The applicant engaged in the Councils pre-application advice service earlier in 2015 when at this point concerns were raised that any scheme in this prominent location would need to have active frontages on all four elevations and not to undermine the wider regeneration of the area. The scheme proposed consists of the erection of a mix of terraced and detached units (proposed at 4 bedrooms) which does reflect the general character and appearance of the surrounding area especially for the Luneside West development which is currently being developed by Redrow and Barratt Homes. The scheme is at a high density (in the region of 40 dwellings per hectare) but this is considered to make efficient use of land and not uncharacteristic of the surrounding area. Notwithstanding this all properties along St Georges Quay and New Quay Road face the River and there is no development on the riverside aspect of the road (such as the proposed development). The principle of housing here, could be supported (assuming technical issues are overcome) however it is considered that if members were minded to approve the scheme a sensitively designed scheme would need to take note of the prominent quayside location and for any scheme coming forward ensure that the rear of the properties when viewed from Morecambe Road and the shared cycleway/path are not dominated by garden play equipment and sheds which could be seen to detract from the wider regeneration that is occurring in the locale.

7.6.2 The scheme at 2.5 storey's in height would be akin to the adjacent development and whilst a number of concerns have been raised with respect to privacy, this should be ensured given there would be 21 metres between dwellings where windows of habitable windows face each other, and whilst the gardens proposed are not 10 metres in length they adhere to the Councils standards of 50sqm, however for the reasons set out in 7.4.1 there are doubts whether this is possible. Overall in conclusion, it is considered that the development on plan would be difficult to resist on design and layout reasons assuming active frontages can be achieved on all elevations, however given the issues that have been raised in respect of flooding (para 7.4.1) and drainage infrastructure (para 7.7.1) whether this is possibility it remains to be seen (such as whether boundary treatments can be used in private gardens and whether if agreement can be reached with the Environment Agency what the overall garden sizes would be).

7.7 Drainage Infrastructure

7.7.1 The views of United Utilities have been sought on the application who whilst do not raise an objection to the scheme have raised significant concerns regarding the presence of a 750mm public combined rising main/pressurised sewer crossing the site. There is a requirement (under building regulations) that there cannot be any development over or within 3 metre of the rising main because the proposed development would be exposed to a high risk in the event of a failure of the rising main. It is very evident from the indicative plan that the development as proposed would not be acceptable given all the units currently proposed are within 3 metres of the mains and therefore meaning that a diversion would be required to facilitate the development. The applicants supporting statement suggests that the cost of a diversion would be a cost incurred by United Utilities due to a legal agreement between the parties. Notwithstanding this, it raises issues as to whether the development can be accommodated on this parcel of land and therefore whether this is a 'deliverable scheme'.

7.8 Affordable Housing / Housing Needs

7.8.1 Given the number of units proposed there is a need to provide 20% on-site affordable provision, equating to 2.8 units. The applicant has suggested that the deliverability of 20% would be subject of a viability assessment, with the viability appraisal being submitted as part of the planning application. Whilst requested from the applicant, the appraisal has yet to be received at the time of writing this report. Notwithstanding this it is quite normal for schemes that are outline not to be accompanied by a detailed viability appraisal and therefore if members were minded to approve the scheme then the 20% could be secured by means of legal agreement.

7.8.2 The scheme as set out in the applicants supporting documents is proposing 4 bedroom units with a mix of terrace and detached dwellings. The Meeting Housing Needs SPD sets out the general need for the area is predominantly properties consisting of 2 and 3 bedrooms within a mixture of dwelling types. It could be considered that the application deviates from the identified need however if a scheme was to be approved this could be considered further at reserved matters stage and in the absence of a response from the strategic housing officer, overall it is considered that matters relating to type and size of properties could be addressed further at reserved matters stage to ensure that the development is meeting a local identified need.

7.9 Air Quality

7.9.1 The application is supported by an Air Quality Assessment given the development would be accessed from the City Centres one way system and this forms the main part of Lancaster's Air Quality Management Area. The conclusions of the assessment (based upon 30 units) is that overall it is unlikely to result in adverse air quality impacts. Given the number of units proposed whilst there may be additional traffic flow into Lancaster's AQMA, the site is a sustainable one, meaning that it would be possible to walk into the City Centre for work and recreational purposes and whilst the views of Environmental Health are awaited it is not considered that there would be detrimental impacts. It is recommended that electric vehicle charging points are installed in all dwellings should committee be minded to approve the application.

7.10 Heritage

7.10.1 The application has generated a substantial amount of public interest with many citing concerns regarding the loss of the last remaining Quay. It is noted that the application site in the past was a quay for the Lune Mills Linoleum Works and New Quay was established in 1767 after St Georges Quay and therefore would have played a pivotal role in Lancaster's economic success in the past. Whilst the site is generally populated by scrub, the site still has the former narrow gauge rails associated with the previous use and therefore it does have some historical value. However the site is a brownfield site and is not within a conservation area, nor is a scheduled monument or listed in any way. The conservation officer raised no objections to the location of dwellings on the site and therefore it is not considered that refusing the application on the basis of a loss of heritage could be substantiated at appeal.

7.11 Ecology

The site immediately abuts the River Lune Biological Heritage site, and the Lune Estuary SSSI and Morecambe Bay SPA/SAC are 1km downstream as such the application was supported by an ecological appraisal. This identified no significant ecological constraints associated with the development and given the presence of the flood defence wall between the Lune and the development it is not considered that there would be any significant impacts on any protected sites. It is also not considered that the development would result in increased pressure on the Morecambe Bay SPA/SAC with respect to the disturbance of wading birds and wildfowl and therefore no significant impacts are envisaged. A condition could be imposed requiring the submission of an ecological enhancement plan.

8.0 Planning Obligations

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

9.0 Conclusions

9.1 The site is considered to be in a sustainable location and has the potential to accommodate development assuming technical issues can be overcome. However, herein lies the problem. The site is located within Flood Zone 3, which is defined as having a high probability of flooding in the National Planning Practice Guidance. No Sequential Test has been submitted and therefore does not accord with National or Local Planning Policy. As such, it has not been demonstrated that there are no other sites available, within areas at a lower risk of flooding, that could accommodate this development. The proposal, therefore, represents an unacceptable form of development having regard to its flood zone location and the provisions of the National Planning Policy Framework. Furthermore the application has raised concerns with respect to the impact that the development may have on the flood defences together with how surface water will be managed on the site and

has attracted objections from the Lead Local Flood Authority and the Environment Agency, and given the rising mains crossing the site brings into question whether the site is deliverable together with whether taking into account the Environment Agencies requirement for a 8 metre easement whether private garden spaces can be achieved.

Recommendation

That Outline Planning Permission **BE REFUSED** for the following reasons:

1. The site is located within Flood Zone 3 and the applicant has not submitted a sequential assessment as required by paragraph 101 of the NPPF. As such, the proposals represents an unacceptable form of development within an area defined as having a high probability of flooding and therefore contrary to Policy DM38 of the Development Management Development Plan Document.
2. The proposed development has the potential to restrict access to the flood defences and therefore heightening the risk of flood defence failure due to a lack of maintenance. The development is therefore contrary to provisions of Section 10 of the National Planning Policy Framework and Policies DM38 and DM39 of the Development Management Development Plan Document.
3. The application contains insufficient detail about how surface water and potential flood water would be attenuated on the site and lacks detail about flood flow routes through the site from surface water, and therefore is considered contrary to Policies DM38 and DM39 of the Development Management Development Plan Document.
4. The proposed development would impact on a rising mains sewer and as such would not comply with current guidance in relation to separation distances. There are concerns therefore whether the proposal would be deliverable and as such does not comply with paragraph 173 of the National Planning Policy Framework.
5. Given the need to leave an 8 metre easement to allow flood defences to be maintained there is no certainty that private usable residential garden space could be achieved and therefore the proposal is contrary to Policy DM35 of the Development Management Development Plan Document.

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

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

Lancaster City Council takes a positive and proactive approach to development proposals, in the interests of delivering sustainable development. As part of this approach the Council offers a pre-application service, aimed at positively influencing development proposals. Whilst the applicant has taken advantage of this service prior to submission, the resulting proposal is unacceptable for the reasons prescribed in the Notice. The applicant is encouraged to liaise with the Case Officer in an attempt to resolve the reasons for refusal.

Human Rights Act

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude 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.

Background Papers

None