

Agenda Item A5	Committee Date 12 December 2016	Application Number 16/00274/FUL
Application Site 23 -25 North Road Lancaster Lancashire LA1 1NS	Proposal Phased change of use and conversion of bar, nightclub and shop (A1/A4) to student accommodation comprising four 7-bed, two 8-bed and one 9-bed cluster flats (sui generis), one 3-bed and two 5-bed cluster flats and 32 residential studios (C3) and gym area with associated internal and external alterations, erection of two 2-storey rear extensions, associated landscaping and car parking and Relevant Demolition of existing rear extensions	
Name of Applicant Bargh Estates & Cityblock Ltd	Name of Agent Mr Chris Bradshaw	
Decision Target Date Time extension agreed until 20 th December 2016	Reason For Delay N/A	
Case Officer	Mr Mark Potts	
Departure	No	
Summary of Recommendation	Approval	

(i) Procedural Note

A site visit was arranged for Elected Members and undertaken on 23rd May 2016. There has been a subsequent delay in the report being drafted due to ongoing discussions taking place with all relevant parties/consultees, and to enable the applicant to seek to address issues of noise and drainage.

1.0 The Site and its Surroundings

1.1 The site is located on the northern fringes of Lancaster City Centre in the Waring and Gillow's Showroom building which is a 19th Century Grade II listed building of coursed dressed sandstone with ashlar dressings. Its original use was as furniture showrooms and offices constructed in 1882 and altered in the 20th Century, and was in active use for furniture sales and manufacture until its closure in 1962. It currently homes the Livingwoods furniture store, and has been used recently as a nightclub and bar (in a number of different guises). The site is located to the east of North Road and is bound by other buildings to the north-east (including The Yorkshire House pub) and a further building to the south west. To the east lies the Sugarhouse Nightclub and beyond this the Grade II listed St Leonards House. To the west is North Road with a car park beyond this.

1.2 The proposal sits within the Lancaster Conservation Area (Canal Corridor North) and the Gillows building is Grade II listed. The site falls within Flood Zone 2 and sits within the Lancaster Air Quality Management Area.

2.0 The Proposal

2.1 The proposed development involves the phased change of use of the Gillows and Waring building that has been previously used as a bar, nightclub and furniture shop for a total of 98 student bedrooms. This will consist of 32 studio apartments, four-7 bedroom, one-3 bedroom, two-5

bedroom, two-8 bedroom and finally one-9 bedroom cluster flats. In addition the scheme proposes a student gymnasium, which would front North Road, together with private dining area and communal space. The scheme proposes the demolition of the existing stair towers (constructed in 1998) to the rear of the building to be replaced by two glazed structures (21.5m long x 2.9m depth x 10.5m high and 13.2m long x 2.9m depth x 10.5m high), which will require there to be some alterations to the fabric of the existing building to facilitate the creation of bedrooms such as the removal of stone lintels, transom panels, mullions, and the stone walls to the cill to be removed. The scheme also proposes 7 car parking spaces to the rear together with outside amenity space and landscaping.

2.2 Since the original submission the Livingwood's Furniture store which occupies the northern part of the ground and first floor is to remain for a period of 7 years (or as otherwise agreed between the applicant and the occupier). Therefore, it is proposed that 73 units of accommodation would be delivered as part of Phase One with 25 units being delivered as part of Phase 2. Given this, it is proposed to lower the height of the existing 1990's stair tower (behind Livingwoods) by removing the second floor access (on a temporary basis). However, as part of the overall development proposals this would be removed and replaced with the fully glazed unit. There will be other alternations to the rear such the provision of a new entrance under an existing stain glass window.

2.3 The development would involve the insertion of three new mezzanine floors which would provide for 6 levels of living accommodation in addition to removal of the existing windows to be replaced by a steel casement window system with acoustic laminate glazed units, in a dark grey colour, together with new partition walls throughout to create the rooms.

3.0 Site History

3.1 The applicant engaged in the Council's pre-application advice service and the scheme has been subject of a pre-application meeting.

Application Number	Proposal	Decision
16/00275/LB	Listed building application for internal and external alterations to facilitate the phased change of use and conversion of bar, nightclub and shop (A1/A4) to student accommodation comprising four 7-bed, two 8-bed and one 9-bed cluster flats (sui generis) one 3-bed and two 5-bed cluster flats, and 32 residential studios (C3) and gym area, erection of two 2-storey rear extensions and demolition of existing rear extension	Pending Decision
15/00878/PRETWO	Change of use from nightclub to student accommodation	Determined
97/01036/CU	Change use basement, part ground floor to Class A3 (Food & Drink), part 1st & 2nd floor to Night Club, & retain remainder of ground & 1st floor for Class A1 (Retail) use, including 2 external staircases & alterations to frontage	Approved

4.0 Consultation Responses

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

Consultee	Response
Environmental Health	Initially objected to the development on the basis of insufficient information contained within the applicants noise assessment report. A revised noise assessment was received in June 2016 and this was the subject of an external independent review by Martec Consulting, in addition to being reviewed by Environmental Health, which demonstrated that noise from the Sugarhouse was likely to be detrimental to the amenity of occupiers and further clarification was required.

	<p>Additional information was received from the applicant's noise consultant on 2nd August 2016 addressing issues of low frequency noise; provision of additional calculations; improved glazing and clarification on matters.</p> <p>The Environmental Health Officer (and external noise consultant) continued to object to the development as the noise predictions relied on a glazing specification said to be on the technical limit of sound insulation with a lack of consideration of predictions that include contributions from sound passing through the roof and external walls. There were concerns relating to the limits of accuracy of the predictions. No consideration to sound 'canyoning' around the building has occurred.</p> <p>Overall it was not considered that music noise levels associated with the Sugarhouse could be satisfactorily controlled so as not to exceed 47dB in the 63Hz octave centre frequency band within habitable areas of the proposed development. It was considered that the development presented an unacceptable risk of adverse impacts and therefore Environmental Health continued to object.</p> <p>Following the receipt of an amended noise assessment and the proposed design amendments, the Environmental Health Service now offer No Objection to the scheme and are prepared to relax the applied criteria for both living and sleeping areas during <u>daytime periods</u> and for living spaces during night-time periods with a relaxation of 5dB. Conditions have been recommended to ensure that the development is undertaken in accordance with the measures contained within the noise report and also a pre-occupation condition to be imposed to ensure the levels are met. This is a view shared by the appointed independent acoustician Martec Consulting.</p> <p>No objections have been received in respect of air quality and contaminated land.</p>
Historic England	No observations to make on the scheme (local guidance to apply).
Conservation Officer	No Objection and the development will enhance and enable appreciation of the Grade II listed building.
The Victorian Society	<p>Object to the development on the basis that the heritage statement fails to comply with Para 128 of the NPPF. They also raise concerns with;</p> <ul style="list-style-type: none"> • Replacement of the windows with double glazed units; • Installation of the mezzanines throughout the building including the transom panel at first floor level; • Inappropriate glazed elevations towards the rear.
Ancient Monuments Society	No Observations received within the timescales.
Society of the protection of ancient buildings	No Observations received within the timescales.
Georgian Group	No Observations received within the timescales
Lancaster Civic Society	Welcomes proposals to restore the building and overall no objections to the scheme.
The Council for British Archaeology	No Observations received within the timescales
United Utilities	No Observations received within the timescales
Greater Manchester Ecology Unit	No Objection
County Highways	No Objection subject to planning conditions associated with the submission of a Construction Traffic Management Statement, provision of cycle storage, upgrading of bus stops, ability to leave the highway in a forward gear.
Lead Local Flood Authority	Initially objected to the development on the basis that there was an unacceptable Flood Risk Assessment (FRA) submitted in support of the scheme. An amended FRA has since been submitted and raise No Objection subject to the development being undertaken in accordance with the mitigation proposed within the FRA.

Environment Agency	Initially objected to the proposal based upon an unacceptable Flood Risk Assessment (FRA). An amended FRA has since been submitted and No objection is raised, however recommend no sleeping accommodation on the ground floor.
City Council Drainage Engineer	No Objection , however recommends that protection measures are implemented to protect against the culvert that runs beneath the building (The culverted watercourse is the Mill Race),
Forward Planning Team	No Observations received within the timescales.
Lancaster University	Raise concerns with the scheme in terms of; <ul style="list-style-type: none"> • Whether there is sufficient and appropriate student demand for the scheme; • The loss of the site to potentially benefit wider city regeneration and economy; • Could trigger the loss of an established student facility.
Lancaster University Students Union (LUSU)	Object to the development on the following grounds; <ul style="list-style-type: none"> • Errors contained within the applicants noise assessment; • Loss of Nightclub / Threat to the future viability of the Sugarhouse and has the potential to impact on business within the City Centre; • Would Jeopardise the Sugarhouse's viability and enjoyment of the students who use the student nightclub. <p>LUSU, via an external noise consultancy, submitted a number of reviews of the acoustic reports prepared by the applicant highlighting a number of concerns with the reports and concerns associated with low frequency noise.</p> <p>LUSU have suggested if Planning Permission is to be granted, mitigation is required to include;</p> <ul style="list-style-type: none"> • Fully sealable windows; • Section 106 agreement to ensure windows cannot be opened together with marketing material alerting future occupants of the presence of the Sugarhouse; • Deed of Easement of Noise to be entered into.
University of Cumbria	No observations received within the timescales
Natural England	No comments to make on the application.
City Council (Waste and Recycling)	Recommend amendments to allow for 4 x 1100 litre bins for general refuse and 6 x 360 litre bins for recycling.
Lancashire Police	No Objections , recommend measures such as CCTV to be installed.
Fire Safety Officer	No Objection.

5.0 Neighbour Representations

5.1 The application has been advertised in the press, by site notice and adjoining businesses and residents notified by letter. At the time of compiling the report there had been **666** letters of representation received in response to the scheme, of those **664** object to the proposal based on the below;

- Noise complaints will come from the students who will reside in the Gillows;
- Too close to the Sugarhouse Nightclub and will create unacceptable noise levels for occupiers; and,
- Threaten the viability of the Sugarhouse and jeopardising Lancaster's night-time economy.

One letter neither objects or supports the proposals and has been received from Crown Furniture who is the current tenant operating the Livingwoods furniture shop expressing concerns with tenancy arrangements (which is not a planning consideration).

One letter of support has been received that the principle of the development is a good idea.

In addition to the above there has been **121** standard postcards received stating;

- Too close to the Sugarhouse Nightclub
- Threatening the viability of the Sugarhouse

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework

Paragraph 12 and 14 – Presumption in favour of Sustainable Development
 Paragraph 17 – Core Principles
 Section 1 (paragraph 18 – 22) – Building a strong, competitive economy
 Paragraph 28 – Supporting the rural economy
 Section 4 (Paragraphs 29 – 41) – Promoting sustainable transport
 Paragraphs 56, 58, 61, 64 – Good Design
 Paragraph 69 – Promoting healthy communities
 Paragraph 123 - Noise
 Section 12 (paragraphs 128, 131 – 134) – Conserving and enhancing the historic environment
 Paragraphs 188-190 – Pre-application engagement
 Paragraphs 196-198 – Determining planning applications

6.2 Lancaster District Core Strategy (adopted July 2008)

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

6.3 Development Management DPD

DM1 – Town Centre Development
 DM20 – Enhancing Accessibility and Transport Linkages
 DM21 – Walking & cycling
 DM22 – Vehicle Parking Provision
 DM23 – Transport Efficient and Travel Plans
 DM30 – Development affected Listed Buildings
 DM31 – Development affecting Conservation Areas
 DM32 – Setting of Designated Heritage Assets
 DM35 – Key Design Principles
 DM36 – Sustainable Design
 DM37 - Air Quality
 DM38 – Development and Flood Risk
 DM39 – Surface Water Run-Off and Sustainable Drainage
 DM40 – Protecting Water Resources
 DM46 – Accommodation for Students
 Appendix B – Car Parking Standards
 Appendix D – Purpose Built and Converted Shared Accommodation
 Appendix F- Studio Accommodation

6.4 Other Material Considerations

- Noise Policy Statement for England;
- National Planning Practice Guidance
- BS8233: 2014 Guidance on Sound Insulation and Noise Reduction for Buildings;
- World Health Organisation: Guideline for Community Noise;
- NANR45 Low Frequency Noise Criteria;
- Manchester City Council Noise Guideline

7.0 Comment and Analysis

7.0.1 The main considerations with the application are as follows;

- Principle of student accommodation;

- Noise Considerations;
- Lancaster University Students Union – Noise Concerns;
- Design Considerations and Heritage Considerations;
- Amenity Considerations;
- Flooding;
- Highways;
- Ecology;
- Air Quality;
- Other Considerations.

7.1 Principle of student accommodation

- 7.1.1 The use of the application site for student accommodation is acceptable in principle. It is situated in a central sustainable location and is close to local services and facilities. It is also adjacent to good bus routes to the Lancaster Campus of the University of Cumbria and to Lancaster University and also a short walk to Lancaster Bus Station. Student numbers in Lancaster have shown an increase over recent years (particularly from international students) with an anticipated increase of 4,000 new students by 2025. While development at Lancaster University has increased the capacity to house students on campus, accommodation off campus continues to be operationally important in order to ensure all first year students can be offered accommodation on campus at the start of their course. The need for student accommodation in the city centre is identified within the Development Management DPD and Policy DM46 sets out criteria by which proposals will be assessed, such as ensuring appropriate living conditions, occupancy conditions, development that is sympathetic to heritage assets and satisfies all relevant planning policies. These issues are discussed further in this report. The Local Planning Authority are supportive of student accommodation within the City Centre; students make a positive and valuable contribution to the mix of uses within the city.
- 7.1.2 Whilst Lancaster University have not objected to the proposals they have raised some concern with the scheme as to whether there is sufficient and appropriate student demand for this development. Whilst there has been no supply and demand assessment submitted as part of this proposal, following the receipt of the University's observations officers wrote to the University to ask for their future projections as to whether additional student accommodation is indeed required (7th July 2016). At the time of preparing this Committee report no formal response has been forthcoming on this point. Whilst the University's concerns on this application are noted, there is no evidence to suggest there is not a requirement for more student accommodation; indeed other student schemes have not elicited similar objections (including the notably larger student village scheme at Bulk Road – Ref: 16/01084/FUL) for 630 units, and discussions with the University (on other potential emerging schemes) suggests that there remains capacity for more student accommodation off-campus. It is therefore considered in the absence of any robust evidence to suggest otherwise that there remains a demand for purpose-built student accommodation in the city centre. Furthermore it is considered that those residential areas in which students traditionally live in terraced properties (including areas of Primrose, Bowerham and Greaves), then the development of purpose-built accommodation provides an opportunity to seek to return this type of housing stock back to the residential open market, hopefully providing much-needed affordable accommodation for first time buyers.
- 7.1.3 The site is not formally allocated in the Local Plan however the University have concerns that the site should be delivered as part of a wider masterplanning exercise for the locality, as opposed to determining individual planning applications. The local planning authority agrees that wider masterplanning would have some benefit. Notwithstanding this, the local planning authority needs to consider each planning application on its own merits. If the application is considered acceptable for all other reasons, then it cannot be refused solely because it would be preferable to develop a masterplan. The site is in close proximity to the Canal Corridor Regeneration Area and the University are of the opinion that the scheme should be considered in the context of these regeneration proposals and not in isolation. The site itself does not fall within the Canal Corridor land allocation, with the Sugarhouse and St Leonards House providing a buffer between this and the allocation. Therefore, in planning terms this cannot be sustained as a reason for refusal.
- 7.1.4 Notwithstanding the above, the loss of the evening economy uses within the Gillow building (being the bars and nightclubs – albeit they have been closed this year) are negatives associated with this planning application, given its location within the City Centre (importantly however the site is not within the City Centre Boundary). It is accepted that nationally there has been a significant decline

in people attending nightclubs (with half the nation's nightclubs having closed since 2005). The evening and night-time economy is dynamically different to 10 years ago for a variety of reasons, including the changes to the licensing laws and the availability of cheap or discounted alcohol at retail outlets. In terms of the loss of the venues within the Gillow Building, DM DPD Policy DM1 is of partial relevance, whereby it states that residential development will be considered favourably provided that it is above ground floor level and does not restrict the maintenance of an active street frontage. Regrettably the proposed development would involve the loss of the bar that operated on the ground floor and also the furniture shop, albeit the shop will continue to trade in the short term. However the building is not in within a primary shopping area nor does it benefit from a primary or secondary retail frontage. The ground floor adjacent to North Road would contain a gymnasium (which is defined as a main town centre use in-line with the NPPF Annex 2). On balance it is considered that the use is in accordance with Policy DM1 of the Development Management DPD.

7.2 Noise Considerations

- 7.2.1 The main issue arising from this application relates to noise, and as such this report considers the noise issues in some depth. National Planning Practice Guidance (NPPG) advises that noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Noise – like many other issues – can override other planning considerations, but the NPPG advises that the National Planning Policy Framework (NPPF) does not expect noise to be considered in isolation, separately from the economic, social and other environmental dimensions of a proposed development.
- 7.2.2 The application site is located approximately 10 metres from the Sugarhouse nightclub, which is run and owned by Lancaster University Students Union (LUSU), who are a registered charity. It currently opens on a Wednesday night between 2300-0300 and on a Friday and Saturday night between 2300–0330 and generally is only open to the students who study at the University of Cumbria and Lancaster University. It is usually open for around 30 weeks of the year (during term time). Its permitted hours are 0900-0630 Monday to Sundays (with 24 hours opening on New Years Eve) and 15 Temporary Events (Notices) are allowed per year. There is also the Yorkshire House Public House located close by, to the north of the site being located approximately 3.5m to the nearest façade of the Gillow building. The Yorkshire House is a live music venue. Paragraph 123 of the NPPF makes it clear that planning decisions should aim to recognise that development will often create some noise and existing businesses wanting to develop should not have unreasonable restrictions placed on them because of changes in nearby land uses (notwithstanding this the provisions of the Environmental Protection Act 1990 and other relevant law will continue to protect amenity).
- 7.2.3 It should be noted that there is no specific guidance in the NPPF or the Local Plan which presents absolute noise level criteria, and there is no accepted formal methodology for assessing the potential impacts of low frequency noise. Low frequency noise is music in the 63 Hz and 125Hz octave band, which is often described as 'bass noise'. It can be difficult to contain and the impulsive and the non-steady character of low frequency noise can be particularly disturbing for residents exposed to it and occurs as a result of venues such as nightclubs. The initial noise assessment was found to be lacking in detail associated with low frequency noise and at the request of Environmental Health Officers, the subsequent revised acoustic assessment utilised *Manchester City Council's Planning and Noise Technical Guidance* with refers to NANR45 which is Low Frequency Noise Criteria (and in essence does underpin this guidance). NANR45 was a document created by Salford University to assist Local Authorities in investigating complaints of noise that could not be heard by officers, and which would help to identify if there was actually noise present where no identifiable environmental source could be found. Something that Members should consider is that the document does state it does not apply to entertainment noise: '*Low frequency noise from entertainment was not considered in the development of the method and is outside the scope of this document*'. Environmental Health Officers believe that Manchester City Council Guidance should be utilised to determine whether the scheme will be detrimental to health. Whilst the guidance is not part of the Council's adopted development plan, it does draw upon British Standards 8233 (2014), NANR45, and the World Health Organisation document '*Guidelines for Community Noise*'. The objective of noise criterion set for low frequency sound within the Guidance is to achieve 'inaudibility'/'virtually inaudible' by limiting music noise levels in the 63Hz and 125Hz octave centre frequency bands (in habitable rooms) to 47dB and 41dB respectively. Whilst the use of guidance from another authority is not common, it is considered that the guidance used in the determination of planning applications in Manchester is seen as a way of enabling the local authority to take a view

as to whether it is likely that the development would give rise to 'actionable' complaints. Whilst the applicant was uncomfortable initially with using standards from elsewhere, their assessment has been carried out with full regard to this methodology. There are other authorities who have less onerous requirements, such as Kirklees Council and Sheffield City Council, and the applicant did raise concerns about needing to adhere to a standard used elsewhere, but he has consented to work to the Manchester requirements. According to a piece of work undertaken by DEFRA in 2005 (NANR92), Noise from Pubs and Clubs (phase I), the local authorities that have an objective criteria for music noise tend to be the exception rather than the norm, as only 15% of authorities have objective criteria. Admittedly this document is 11 years old however it is not expected to have risen dramatically, but it puts into perspective how few local authorities utilise objective criteria in this particular field.

- 7.2.4 The application was submitted with a detailed noise assessment with background measurements undertaken between Friday 22nd to Monday 25th January 2016. The Council's Environmental Health Officer raised concerns with the noise report given the on-site measurement location was from a first floor window and there was concern that the sound levels for the higher floors would need to be re-evaluated to ensure that the correct level of acoustic insulation was provided for. The applicant's noise assessment was undertaken in January 2016 and the Yorkshire House Public House was closed (due to being flooded associated with Storm Desmond in December 2015). The applicants had accounted for this in the assessment using noise measurements taken from a similar live music venue, however it failed to take account of the bedrooms on the side elevations and concerns raised regarding the admission-queuing that occurs to the Sugarhouse. Concerns were also raised that the combined noise impacts had not been assessed adequately and that issues of low frequency noise had not been fully explored and considered. In response the applicants undertook additional noise monitoring between the 24th–27th June 2016 (it is understood that the Sugarhouse was operational on 24th June 2016) including clarifying points of concern Environmental Health Officers previously raised. The Local Planning Authority enlisted the advice of an independent noise consultancy (Martec Environmental Consultants) to review the noise reports. Martec are a consultancy that specialises in environmental noise assessment and control and the author is a corporate member of the Institute of Acoustics since 1988, and thus has significant experience in this field. Martec's review raised concerns that the proposal did not meet the required levels in terms of low frequency (63Hz and 125Hz frequency bands) as set out in the Manchester City Council document or the BS8233 guidance. Additionally there was a lack of assessment of the communal student living rooms (those facing the Sugarhouse); a number of deficiencies of the proposed acoustic design; concerns relating to the uppermost floor of the development (studios); together with providing additional measurements and predictions and a number of other issues that required further clarity. It was considered that these issues did not allow for a comprehensive and informed decision to be made, thus leading officers to conclude that the proposal would lead to a significant loss of amenity for those occupiers within it, with living accommodation located within the glass façade element to be potentially inhabitable after 11pm.
- 7.2.5 On 2nd August 2016, further information was provided which included additional mitigation and clarification arising from the external review of the assessment. The scheme now proposed the buffer zone to the rear of the building (which was to have a door separating the living and sleeping areas), to now be one room, as the latest predictions attempt to demonstrate that noise would be attenuated at the perimeter of the building. To increase the attenuation within the accommodation, window sizes were reduced from 6.7m² down to 3.5m² and the window specification increased, with the weight more than doubled. On the glass façade facing the Sugarhouse there would be a 24.8mm of glass a 400mm void space and 24.8mm of glass. There was a concern that the glazing had not been tested. Environmental Health and Martec continued to object to the development as the additional information relied upon a significantly improved glazing specification which was on the technical limit of sound insulation. The predictions (to arrive at this conclusion) did not include contributions from sound passing through the roof and external walls and therefore these omissions were a weakness, as was the accuracy of the predictions (considered to include a limit of accuracy of +/- 2dB). Overall it was considered that due to the continued uncertainties around the assessment it could not be concluded that noise levels associated with the Sugarhouse could be controlled so not to exceed 47dB in the 63Hz octave frequency within habitable areas.
- 7.2.6 The Local Planning Authority received a further noise assessment on 20th September 2016 with this being reviewed by Martec and Environmental Health Officers. In essence this failed to fully address the concerns and whilst there was a general consensus that relaxing the guidelines in living spaces at night could be found acceptable, the exceedances were significant (at 63Hz ranging from 15-

20dB exceedances), and there remained too much uncertainty of the potential impacts of noise on future occupants. Additionally there remained significant observed effect levels in relation to low frequency sound which are noticeable and intrusive and likely to give rise to complaints about noise. Given the self-contained nature of the upper-most floor studios there was concern here that noise could be problematic to the amenity of users.

- 7.2.7 On 21st October 2016 a new noise survey addendum was received which proposed some small changes to the design of the rear glass façade. These sought to utilise secondary glazing to the rear and side facades, and the provision of obscure glazing with acoustic panelling behind the glazed façade. It also proposed provision of a glazed door separating the living space element of a bedroom associated with the cluster flat and the bedroom (window construction to be 16.8mm acoustic laminate glass, a 500mm cavity and 16.8mm acoustic glass in a separate frame). With respect to the studios, window construction has been increased to 16.8 mm acoustic laminate glass, a 500 mm cavity and 16.8mm acoustic laminate glass in a separate frame and there is now proposed to include an inter-connecting door between the living and bedroom mezzanine with doors specified for between the corridor and studios. The studios and bedrooms on the side elevations will have a window construction of a 24.8mm acoustic laminate glass, a 500mm cavity and 24.8mm acoustic laminate in separate frames. The applicants now contend that the scheme would comply with the MCC guidance within all the bedrooms and the noise levels within living areas will be achieved assuming a 5dB relaxation. Martec have reviewed the revised noise assessment and it has also been reviewed by officers in Environmental Health. In considering relaxing the criteria for both the living and sleeping areas during the daytime periods and for living spaces during night-time periods Environmental Health consider it is reasonable to suggest a 5dB relaxation to the criteria which is derived from the provisions detailed within the NANR45 guidance.
- 7.2.8 There is now confidence that following the strengthening of the acoustic performance of the rear façade facing the Sugarhouse that the internal levels can be achieved (together with the changes associated with the studios on the uppermost floors). The applied relaxed criteria is achievable in the majority of living spaces, and is easily achievable in sleeping areas when interconnecting doors are closed, but even when they are not closed, the exceedances during night time periods are marginal. The view is taken that the marginality of the exceedances within the bedrooms with the interconnecting door open is likely to be 'barely perceptible'. The applicant's revised assessment demonstrates that with an appropriate 'applied relaxation' to the MCC criteria acceptable sound levels can be achieved in living spaces at night-time periods which are likely to result in 'lowest observed effect levels'. In bedrooms with doors closed, predicted sound levels are likely to result in 'no observed effect levels'.
- 7.2.9 In view of the above, Environmental Health Officers conclude that with appropriate sound insulating materials being implemented, these marginal increases in sound levels are more aligned to the MCC guideline criteria, used to ensure that noise is at a sufficiently low enough level so as not to cause unreasonable disturbance. They do however recommend planning conditions associated with sound insulation materials to be as detailed within the noise prediction calculations and a scheme of mechanical ventilation to be implemented throughout the development. A pre-occupation condition is also proposed to ensure that levels can be met. Whilst not raised by Martec or Environmental Health Officers, a question has been asked as to whether the phasing aspect is likely to lead to loss of amenity/creation of actionable noise complaints for occupiers within Phase 1. Confirmation has been provided from the applicant's acoustician on 23rd November 2016 to suggest the noise transfer will have a negligible impact on the internal noise levels within the residential accommodation above. The views of Environmental Health have been sought with respect to this, who consider that following the review of the information submitted by the applicant, it is not anticipated that there would be potential noise issues with the phasing aspect of the development with respect to low frequency noise.
- 7.2.10 As this report advises, a considerable amount of time has been expended and expertise – from colleagues within Environmental Health as well as consultants – has been utilised. In addition to this, the local authority also enlisted the expertise of the multi-agency consultancy Urban Vision to review the Council's approach to testing the noise assessment. Urban Vision's overall conclusion is that the previous objections were warranted, and that the Council has not been too risk averse in assessing the proposal. With the technical support of Martec, a significant upgrading in the design and the structure of the proposed living accommodation has been put forward. Urban Vision comment that while the planning system attempts to prevent noise from giving rise to significant adverse impacts there will be time, Environmental Health are able to use the available enforcement

powers to tackle the source of the noise. The view of Urban Vision is that the Sugarhouse is a specific noise source with scope for improvement in the structure of the building and in the way it operates to mitigate noise egress.

7.3 Lancaster University Students Union (LUSU) – Noise Concerns

7.3.1 LUSU's fundamental concern is that the operation of the nightclub could be compromised by introducing a noise-sensitive user in close proximity to its nightclub with complaints coming from future residents. The University's Provost for the Student Experience, Colleges and the Library estimates the Sugarhouse achieves almost 100,000 attendances a year and therefore in context this goes to show this is a heavily used student venue. LUSU suggest that the complaints may lead to proceedings against nuisance, *if* (our emphasis) the proceedings were successful that would result in a requirement for the Sugarhouse to abate the nuisance (in short turning the volume down, management of noise and/or improvements to the building – but not necessarily closure as this is a last resort). All parties including the applicant agree that this is not in the interests of anyone. Officers are of the opinion that the impact of a prospective planning permission on the viability of a neighbouring business may in principle amount a material planning consideration, and this was the stance in the Court of Appeal case in *Forster-v-The Secretary of State for Communities and Local Government* (2016) which concerned the demolition of a single storey building in Stepney and the erection of a mixed-used scheme comprising of living and commercial uses, which was adjacent to the George Tavern (a live music venue). There are therefore some synergies between the two schemes.

7.3.2 It is important for Members to consider that just because potential future occupants were aware of the nightclub, this is no defence against environmental health (noise) action being taken, and 'actionable' nuisance would still need to be investigated. The site lies within the City Centre and therefore it would reasonable to suggest that some level of disturbance is likely to occur. The question for decision-makers is the level of disturbance and whether this is reasonable in this location? In their assessment of the scheme Members should have regard to the two questions below;

- I. Is there a risk that the proposed development (student accommodation) could lead to the restricted nature of the club (or closure of the Sugarhouse nightclub)?
- II. What mitigation is required to enable the development to be acceptable in noise terms?

7.3.3 LUSUs' appointed noise consultant has critiqued the applicant's noise assessment and remains of the view that the technical substance of the noise report is deficient and therefore the Council cannot be certain that the proposal will not increase the likelihood of an actionable nuisance being raised against the Sugarhouse. They raise significant concerns that the applicant has failed to examine the 1/3 octave spectrum, whereas the Authority have asked the developer to assess noise in the 63 Hz and 125 Hz full octave band noise levels. They also considered it is not reasonable for students to be expected to vacate their living areas by 23:00 so they are not disturbed by low frequency noise. They consider that given the conditions proposed by Environmental Health, this still implies that Environmental Health have their own concerns regarding the development.

7.3.4 Further information on the 1/3 octave is useful at this point. 1/1 and 1/3 octave spectra are the most frequently used formats in acoustical measurements. The audible frequency range can be split into unequal segments called octaves. Octave bands (or spectra) can be separated into three ranges, referred to as 1/3 octave spectrum. Some people may be more susceptible than others to the sound or tonal characteristics. A difficulty of low frequency noise is that it can be difficult to monitor and assess due to its nature and the nature of room acoustics. For instance it maybe possible to hear something in the corner of a room but not the other side (i.e. incredibly localised). The MCC guidance does state that the 1/3 octave is not applicable to the assessment of entertainment noise and does recommend the used of combined octave band levels for 63 and 125 Hz. The rationale for this is that the Manchester Standards state that the main reason for not using the 1/3 octaves is a lack of laboratory test data for building materials. Attempting to predict the behaviour of low frequency sound is also fraught with difficulty and to fine tune predictions to 1/3 octaves may not necessarily assist and the levels that are used in the NANR45 curve are so low that in all likelihood may likely to be exceeded within a development by the use of mechanical ventilation or electrical appliances. The Environmental Health Service has considered the suggestion from LUSU on the 1/3 octave issue but the response is that this would be relevant to assess an existing situation, but such data would not be reliable or practical for applications in predicting 'future' sound levels due to

the lack of published data within these ranges. Following additional material from LUSU the Council's independent consultant has reviewed the material put forward on the 1/3 octave band. LUSU have sought to demonstrate that it is essential that the Authority seeks to establish the 1/3 octave sound levels and that this has been supported elsewhere notably in London (a scheme at Eileen House comprising residential accommodation adjacent to the Ministry of Sound nightclub). Martec's response on this matter is that in the instance where other local authorities have utilised alternatives to NANR45 (as modified by MCC) full rating curves have been used and not 1/3 octave bands. The applicant's acoustician did provide evidence from Sheffield and Kirklees, both of which were using Noise Rating Curves in full octave bands, Martec have also mentioned that Bristol operate in this way also. It does need to be remembered that many authorities do not have specific guidance but those that do such as Manchester, Sheffield, Kirklees and Bristol all appear to be seeking compliance based on entertainment noise measures or predicted in full octave bands. Martec note that the planning conditions associated with the scheme at Eileen House, are all based on octave bands (not 1/3 octave), therefore the planning conditions associated with Eileen House do not appear to support LUSU's position.

7.3.5 It's important to stress that whilst LUSU have concerns it is the view of officers that they are not entirely opposed to the proposal, more so concerned about the future of the nightclub. This is understandable is why they have sought to seek expert advice. Their consultants recommend that full sealed windows are incorporated into the development proposals and this should be secured by means of Section 106 agreement to ensure that no future application is submitted to vary the terms of the mitigation proposed. They also suggest that the applicant should secure sound insulation measures within the Sugarhouse at the applicant's expense together with a Deed of Easement of Noise. LUSU are of the view that without the safeguard of the deed of easement; and the prevention of any future applications to amend the details securing the noise mitigation works; and ensuring that the developer would ensure that marketing materials are given to potential occupiers then LUSU would have serious concerns for their business. LUSU have stated that the deed of easement was necessary to permit the scheme at Eileen House in London, together with the other measures contained above. It is the case that the Eileen House scheme did indeed have the obligations mentioned above attached to the consent. However officers have reviewed the reports associated with the approval of the Eileen House scheme. In the Stage III report dated 19th November 2013 it states the below;

In a further representation Ministry of Sound (MoS) has suggested that the GLA, the owner, the developer and MoS should enter into a Section 106 Agreement to deal with wind and noise mitigation measures and to provide for a Deed of Easement to be granted to MoS to deal with that the MoS claims will be adverse impacts arising from the proposal. Officers, however, do not consider that there is any need for such an agreement for an easement to be granted because taking into account the mitigation measures, which have been introduced into the design of the proposal and conditions proposed, the likely effects on the nightclubs operation will not be such as to give rise to any adverse impacts. In any event, securing such an agreement and grants of rights will depend on obtaining the landowners agreement and as far as GLA officers are aware, this is not likely to be forthcoming. The proposal made by MoS has no further relevance in the determination of this application.

In the representation hearing addendum report dated 19th December 2013 paragraph 17 it states the following;

Officers were satisfied that the mitigation detailed in the stage III report is sufficient to make the development acceptable and that further mitigation was therefore not necessary to make the development in planning terms. However the amendments to the proposed planning conditions and planning obligations noted above are welcomed and will provide comfort to the developments neighbours that the development will be carried out as proposed, that the local planning authority will be provided with sufficient information required to discharge the conditions, and that proposed mitigation works will be implemented, retained and maintained as proposed. The likely significant environmental effects of the development have been considered the importance of the predicted effects and scope for reducing them have been clarified and agreed by the objectors and the applicant.

In summary whilst there is a deed of easement applicable to the above development, from a review of the associated reports to the Mayor of London this was only arrived at following discussions between MoS and the developers, as the representation hearing meeting was adjourned to allow the applicant and MoS to discuss MoS's proposals for a deed of easement and planning obligations.

The applicant and MoS agreed the amendments to the planning conditions and Section 106 to address the concerns raised, but nevertheless this is a material consideration in the determination of this planning application.

7.3.6 LUSU have suggested that a deed of easement would enable them to be more relaxed with the proposal. With respect to a deed of easement, this would allow noise from the 'The Sugarhouse' to effectively pass over the Gillows development such that any future occupier of the building would be fettered from pursuing any actionable noise nuisance claim. The deed of easement was utilised in the approval of a planning consent for the 41 storey residential re-development of Eileen House in South London. Whilst the concept has been utilised on this London based scheme, in practice whether a resident could still complain to the Council under the Environmental Protection Act 1990 remains to be seen and whilst a deed would be in place should a complaint be received a Council would appear to still have a duty to investigate and serve an abatement notice should nuisance be found but there is no legal method to guarantee this will not happen. Whilst the principles are accepted, Environmental Health consider that the scheme as now proposed can meet the relevant limits and they have proposed planning conditions to address this. Whilst the Local Planning Authority are sympathetic to the stance of LUSU, on balance it is not considered reasonable in this instance to make the developer be party to such a deed of easement and would not be required to make the development acceptable in planning terms and therefore fails to accord with Paragraph 204 of the NPPF. It should be considered that the noise predictions have been assessed on the basis of a current scenario case (before any proposed improvements internally within the Sugarhouse as discussed in 7.3.7) and therefore there is no reason to doubt that the relaxed limits as agreed by Environmental Health Officers cannot be achieved. If members were to consider that a deed of easement was required (to give total assurance to LUSU), this would require the applicant to agree to this which from officer's discussions is unlikely to happen on the basis that they meet the recommended limits (and as it would be a burden on title and secondly funding for the scheme would be difficult to be attained should this occur – it should be noted that nothing has been submitted by the applicant to come to a conclusion on this, however it is apparent that since the recession that lending institutions are more risk averse to lending than they were previously). Whilst there are merits to such a deed, officers are confident planning conditions can be imposed which enable sufficient protection for both parties.

7.3.7 With respect to measures to control noise emanating from inside the Sugarhouse, in October 2016, Robertson's (the applicant for the change of use of St Leonards House to student accommodation (16/01155/FUL) undertook a series of measurements within the nightclub to establish where there could be improvements made to the building to assist in attenuating sound at source. This was followed by a meeting on 15th November 2016 with the local planning authority, the applicant (Cityblock), LUSU, Lancaster University and Robertson's (the applicant on neighbouring application 16/01155/FUL for St Leonard's House), and this was chaired by the Chief Officer (Planning and Regeneration). The measures proposed to the Sugarhouse included:

- Amendments to the main entrance doors;
- Amendments to the smoking shelter access door;
- Fire escape replacement double doors and cellar access double doors.

It was understood that Cityblock and Robertsons would split the costs of the works listed above.

It has been noted that there could be works undertaken to the lightweight thermal roof but viability could prove an issue (but it is an option). The applicant maintains that LUSU are currently in breach of their planning permission for their smoking shelter (07/01032/FUL) where a condition was attached requiring the smoking shelter doors to have a self-closing mechanism. This will be investigated separately by Officers. Whilst a proposal has been put forward to LUSU this is on the basis of a goodwill gesture by the applicants. Officers believe that the works are not required to allow the development to proceed, but LUSU have via their agents requested that works are undertaken to their building in previous correspondence (October 2016). Following the meeting there is still uncertainty as to whether LUSU would be satisfied with the works being undertaken to their building to help limit noise escaping from their nightclub as they maintain that the improvements are unlikely to offer any improvements with respect to low frequency noise. The Local Authority have assisted with facilitating a meeting between the parties and whilst the door is not closed in terms of improvements this would be the subject of discussions between the developer and LUSU and in the opinion of officers it would be unfortunate if LUSU were not receptive to the suggestions being made.

LUSU have suggested that the development will result in 'actionable complaints' and this would result in the Court requiring the noise to stop, and with it the continued operation of the nightclub. This is not the case as any order would be to attenuate noise so it does not pose an 'actionable nuisance'. In the opinion of officers the measures proposed above would assist in making the building more noise resilient and would assist in providing further safeguards to LUSU.

7.3.8 It is considered that measures such as the requirement for windows to be closed could be deemed unreasonable, as many of us use windows for rapid or purge ventilation. However, as is the case here, windows do need to be closed to ensure that the noise levels are achieved, in these circumstances as long as adequate ventilation is provided for (which will be addressed by planning condition), then on balance this is deemed acceptable to officers. LUSU would like to see a control on marketing material to be made available to prospective tenants, together with noise mitigation to be secured by legal agreement. It is considered that restricting future applications being submitted, (in essence if the applicant tried to water down the mitigation measures), is unnecessary because any new or variation of a planning condition application would be formally assessed on its own merits. Such an application would be presented to the Planning Committee. With respect to marketing material, this is something that is likely to occur anyway from the applicant's perspective, but is not considered required to enable a positive recommendation to be reached, however has been brought to the applicant's attention.

7.3.9 As can be seen in Paragraph 5.1 of this report there has been considerable interest in this planning application, predominately from LUSU, Lancaster University and many hundreds of students who study at Lancaster University (of which the overwhelming majority of the representations received are from). Many have cited the concern that the Sugarhouse as one of the last remaining "nightclubs" in the city centre could be lost as a result of this scheme and that noise complaints would threaten the future of this. Whilst these concerns have been noted, on many occasions the impact of external noise generated from off-site uses can be mitigated through engineering solutions within a building. Furthermore there are many examples especially within cities whereby late night music venues and residential properties co-exist. Planning conditions can be used to ensure amenity is not harmed, where there is certainty that the condition can be fulfilled and complied with, but planning conditions cannot be imposed if they are not able to be fulfilled. Given the responses of the Environmental Health Service, Martec and Urban Vision there is now confidence that planning conditions can be appropriately imposed. It is therefore considered that noise (in particular low frequency noise) would not be detrimental to the amenity of those occupiers and that the design of the development (which includes the mitigation) would create acceptable living and sleeping conditions and therefore conforms to meet the requirements of DM DPD Policy DM35 and Policy DM46.

7.3.10 Turning to paragraph 7.3.2 and the questions Members should consider;

- III. Is there a risk that the proposed development (student accommodation) could lead to the restricted nature of the club (or closure of the Sugarhouse nightclub)?
- IV. What mitigation is required to enable the development to be acceptable in noise terms?

The impact on the Sugarhouse is a material consideration, and significant weight has been attached to this in the determination of this application, as is evidenced by the amount of scrutiny that the issue has received, from internal and external noise experts. It is for this reason there have been a number of revisions to the scheme. Officers are satisfied that the proposal can be delivered without detriment to the operations of the Sugarhouse. On the issue of the 1/3 octave data the Environmental Health Service have provided assurance (paragraph 7.3.4) and officers are satisfied that based on the evidence there is certainty that the scheme can be delivered. The mitigation proposed has been designed into the scheme such as the use of laminate glass and acoustic glazing. Conditions can be imposed requiring the limits to be adhered to and this is considered reasonable. Environmental Health did propose a pre-occupation condition to establish whether the levels are adhered to; the applicant has concerns that this is not reasonable given there will be a condition controlling the overall noise in any event, this is a view echoed by Urban Vision. Officers consider that there is merit in such a condition being imposed. On the deed of easement issue, Officers would not be looking to recommend a scheme for approval if they considered that actionable noise complaints were likely to occur.

7.4 Noise Conclusions

7.4.1 The application has generated a substantial amount of concern with respect to noise and this is why the Local Authority engaged the services of an independent noise consultant in the form of Martec Consulting. A further tier of assurance (from Urban Vision) has been provided as part of this process, to ensure that the process has been appropriate and robust. These measures were considered necessary to ensure (a) occupants would not be subjected to noise that would be detrimental to health and (b) that it would not adversely impact on the operation of the nightclub. Both of these independent consultants, who have been appointed to give an impartial view, consider the scheme is acceptable from a noise perspective subject to the provision of conditions. The objections received are understandable as the Sugarhouse is a long-standing student nightclub in the City Centre which adds to the student experience of studying at Lancaster University, and the Local Authority recognises its' social and economic value to the wider city. It is noted that the applicant already provides purpose built student accommodation within the City Centre, it could be said that some students may find considerable favour in being located so close to the University's only nightclub. Members are tasked to determine the application based on the evidence provided. Whilst LUSU refer to a scheme in London which sought to include extensive mitigation by legal agreement, the London development is a very different scheme which proposes permanent living accommodation. The scheme before Members is for student accommodation which is not the sole address of the occupants. The scheme has communal areas of living, whereas the scheme in London would not contain this. Unlike permanent residences, students are provided with support whilst in tenancy and if intolerant to particular noise disturbances from either within or without the development, they can be given the option to be relocated. Tenancies are usually only 50 weeks in duration. However critically - in the opinion of officers and their appointed consultants and Environmental Health - the scheme would not give rise to actionable noise complaints in any event. Collectively the Local Authority are content that the applicant' proposals (subject to conditions) are not likely to lead to 'actionable' noise complaints and the two land uses can co-exist.

7.5 Design Considerations and Heritage Considerations

7.5.1 In accordance with the Listed Building and Conservation Areas Act, when considering any application that affects a Conservation Area or the setting of a listed building, the Local Planning Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of that area or the setting of the building. This is reiterated by Policies DM30, DM31 and DM32 of the DM DPD, with Policy DM31 setting out that alterations and extensions within Conservation Areas will only be permitted where it has been demonstrated that:

- Proposals respect the character of the surrounding built form and its wider setting in terms of design, siting, scale, massing, height and the materials used; and,
- Proposals will not result in the loss or alteration of features which contribute to the special character of the building and area; and,
- Proposed uses are sympathetic and appropriate to the character of the existing building and will not result in any detrimental impact on the visual amenity and wider setting of the Conservation Area.

With respect to listed buildings favourable consideration may be afforded to schemes which represent the most appropriate way of conserving the building and architectural and historic significance and setting in accordance with Policy DM30 of the DM DPD. The applicant has submitted a heritage appraisal in support of the scheme and the contents have been reviewed by the Conservation Officer who feels that the heritage assessment does comply with the requirements of Para 128 of the NPPF in terms of detailing the significance of heritage assets affected.

7.5.2 There are a number of interventions that are proposed to be undertaken to allow the building to be used for student residential purposes. Externally, this includes replacing the existing timber windows (to all elevations) to double glazed units within a steel frame, replacement of the existing slate roof, the existing single glazed roof light to be replaced with a thin frame with double glazed units, the non-original modified door entrance to be removed and replaced with the original window fenestration, together with the provision of new doors and the demolition of the existing staircases to the rear to be replaced by two new glazed extensions. Internally the scheme proposes to include 3 new mezzanine floors and the removal of partition walls and stairs (associated with the nightclub use). It is the case that the building was heavily modified in 1998/1999 for the nightclub use, with

two new stair towers added for fire excavation purposes at the rear, windows boarded up internally, partition walls, ceilings and raised and false floors all added. The element of the building occupied by the furniture shop still possesses the original fabric of the building which has timber panelling to the walls, ceilings and doors, and decorative details to the cornice and door surrounds at first floor, and the impressive staircase and stained glass window are still all present (and retained as part of this proposal).

- 7.5.3 Given its former use as a furniture showroom, the building does have high ceiling heights in the region of 4.6 metres and given this the applicant has sought to provide new structural mezzanine floors being placed on the ground, first and second floor. The introduction of the mezzanine floors does raise some concerns, however Conservation Officers raise no objection welcome the re-use of the building.
- 7.5.4 The building is impressive (and is thought could have been designed by Paley and Austin). On the rear elevation is a grand stained glass window (currently boarded but this is to be re-opened as part of the scheme - a significant benefit). The proposal seeks to retain the existing cast iron columns and beams and as part of the fit out of the nightclub this included the insertion of fixed furniture and fittings, such as bar areas, seating, raised floors which have concealed the original finishes of the building. The frontage along North Road will essentially remain the same other than the entrance that once served Toast/Mojos is to be removed and replaced with the original window fenestration. On the first floor there will be an integrated transom panel at the new mezzanine floor level. Concerns were raised with the introduction of a transom panel measuring 270mm deep originally and this has since been reduced to 110mm by the applicant, on balance this aspect is considered appropriate. It is considered that the changes proposed to the North Road elevation are acceptable providing conditions are imposed addressing the need for materials (such as replacement stone, slates, windows etc) and an appropriate screening film on the ground floor windows to help screen gymnasium equipment.
- 7.5.5 The rear elevation does change dramatically as part of the proposal and the two rear stair towers erected in the late 1990's, have already resulted in changes to this façade, which was part of the consent in the late 1990's. The glass façade will provide additional floor space for the scheme, but crucially acts as an acoustic buffer aimed at protecting those occupiers from noise emanating from the Sugarhouse and Yorkshire House. Two predominately glazed extensions are proposed to the rear of the building, to facilitate this, however there would be intervention to the rear façade of the building to include the removal of stone lintels, transoms, mullions, sills and the stone wall beneath to the sills to be removed to allow for a doorway to be provided for. The intervention to the rear of the listed building here is regrettable, with the intervention required to facilitate the glazed facades to the rear of the building. In heritage terms whilst there would be harm to the rear elevation of the building and changes internally this would not amount to substantial harm. The proposed glazed facades are deemed to be complementary to the existing building and would look to provide a curtain walling arrangement. On balance whilst there is a significant change to the rear façade it is considered that the proposal would not lead to substantial harm, or loss of significance of the building, although inevitably there is some level of harm which is created by the proposed development however without this proposal, the building could to fall into disrepair. Whilst the Victorian Society raise a number of objections to the scheme, no objection has been received from the Councils Conservation Officer, Historic England or the Civic Society. The Victorian Society consider that the heritage assessment fails to consider the impacts of the proposals on the buildings significance, notably the interior, however the Conservation Officer feels that this has been satisfactorily done and therefore the assessment complies with the Para 128 of the NPPF. As they are one of the National Amenity Societies, and they maintain an objection against a planning application which recommends approval of certain works to a Grade II listed building, it is considered that the Listed Building Consent application (16/00275/LB) would require referral to the Secretary of State.
- 7.5.6 The Council's Conservation Officer raises no objection to the proposed development and concludes that the scheme has been sensitively designed and the alterations will lead to an enhancement of the building and the restored roof light will be appreciated. The windows are an important feature of the building and do form an important contribution to the character and significance of the building which is detailed around the building with a deep angled stone rebate with a stone mullion and transom which forms part of the window. The Conservation Officer did raise concern with the originally proposed transom panel however these concerns were removed on receipt of the amended detail.

7.5.7 It is considered that the re-use of this building is the most appropriate way of conserving the building and the historic significance and its setting, and there are public benefits associated with bringing this building back into use and officers are satisfied that the scheme does present the optimum viable use for the building and therefore the scheme accords with Paragraph 134 of the NPPF. The principal façade along North Road will be largely unaltered and views to it from both within and outside the Conservation Area will continue to be appreciated and would preserve and enhance the character and appearance of the Conservation Area. The rear elevation is largely unseen because of it being screened by St Leonards House and the Sugarhouse nightclub, however the glazed façade would add a contemporary element to the rear and whilst the loss of the windows on the rear to facilitate living accommodation is a weakness of the scheme, overall it is not considered that there would be substantial harm or a total loss of significance of the Grade II Listed building. Therefore it is considered that the scheme complies with Policies DM30, DM31 and DM32 of the Development Management DPD.

7.6 Amenity considerations

7.6.1 The Development Management DPD contains adopted standards with respect to room sizes for both studios and cluster flats. The scheme as presented proposes 32 studio apartments and all comply with the Council's standards in terms of 19m² rooms (with many of these in the region of 23m²). In essence these would be split level living, with living space/kitchen on the lower floor whilst the sleeping accommodation and en-suite facilities would be on the upper most floor. Natural light is appropriate on the living accommodation floor, but borrowed light (in the form of clerestory windows illuminated from the roof lights for the bed-deck/en-suite) is considered appropriate given the constraints imposed by the listed status of the building. Initially two of the studios failed to benefit from an appropriate standard of outlook by having no windows or natural light, but the plans were amended to provide for a narrow window opening (0.3m x 1.5m). This was less than ideal and so this has now been amended to provide for full height windows, which are acceptable. The cluster flats range from 3 bedroom cluster flats to 9 bedroom cluster flats. The standard is generally for these to have no more than 6 bedrooms. The applicant has developed previously in the City (notably Cityblock 1, 2, 3 & 4) where similar arrangements have been provided for. The Council's adopted position is for bedrooms to be 11m², the majority of the bedrooms associated with the cluster flats are approximately 14m², the bedrooms associated with the rear elevation who utilise a glass façade are in the region of 17m². Given bedroom sizes overall are in excess of the required standard, coupled with an appropriate amount of communal space the room sizes are to be supported.

7.6.2 The majority of rooms face across North Road or towards the Sugarhouse/St Leonards House and therefore have an appropriate outlook, but there are some bedrooms that face towards blank elevations on the adjacent warehouse and onto the gable end of the Yorkshire House Public House. It is considered that 7 of the bedrooms associated with the cluster flats have limited outlook (ranging from 7m to 9m) and therefore under the adopted position of 12 metres between a window and any wall or structure opposite. Given this represents a small proportion of the units applied for, and that the room sizes are above adoptable standards, and critically that the development will assist in the re-use of the impressive Grade II listed building, on balance this is acceptable.

7.6.3 The scheme does propose a small area of amenity/buffer to the east of the building consisting of a raised deck amenity area which contains some small scale landscaping proposals and seating. This element of the scheme is supported as even though the scheme is within the City Centre, residents may wish to enjoy some outdoor recreation space and the applicant's proposal allows this to occur.

7.7 Flooding

7.7.1 The site lies within Flood Zone 2 and the building suffered extensive damage to the basement and ground floor as a result of the flooding in December 2015, to the extent whereby the electrics were still not operational in the building at the time of the case officer's site visit. The applicant submitted a detailed Flood Risk Assessment (FRA) in support of the application which recommends subject to the development being built in accordance with the mitigation proposals detailed within the report such as existing wall penetrations and apertures to receive flood barrier protection, notably along the southern building line that the development would be acceptable in flood risk terms. It should be noted that the basement would contain the plant room however it is proposed to incorporate a drainage sump, and pathways for water ingress would be blocked. The ground floor would contain

the gym, private dining area, a common room, office, laundry and a cycle stores and student living and sleeping accommodation.

7.7.2 The Environment Agency and Lead Local Flood Authority originally objected to the proposals on the basis that an inadequate FRA was submitted with the scheme, and following this an amended FRA was submitted. Whilst the Environment Agency have removed their objection they recommend that there should be no sleeping accommodation on the ground floor of the building. As part of the full redevelopment of the site it is proposed that approximately half of the floor space will be given over to uses such as a gymnasium, common room, laundry and cycle storage, all of this is located at the North Road elevation of the proposal. There will be 9 bedrooms associated with shared accommodation on the ground floor. Whilst it would be preferential to have no sleeping accommodation on the ground floor there is no objection and therefore subject to the mitigation being put in place can be found acceptable. The Lead Local Flood Authority originally objected to the development however withdrew their objection in August 2016 on the understanding that the mitigation included within the FRA is included notably the finished floor levels to be as detailed within the assessment, flood warning and use of flood resilient technique. These issues can be addressed by way of planning condition should Members wish to support the scheme.

7.7.3 Development of this nature in Flood Zone 2 would generally require a Sequential Test in support of the application to establish if the development could be located in an area at a lower risk of flooding (such as Flood Zone 1). National Guidance however is clear that the Sequential Test does not need to be applied to applications promoting the change of use (except for change of use to a caravan, camping or chalet site or a mobile home or park home site), or for minor development. Notwithstanding the above, the glass façade to the rear would support living accommodation (albeit an extension to the bedrooms) and is not deemed minor development and therefore the agent has been asked to provide a Sequential Test in support of the application. The agent maintains that a Sequential Test is not required as the development cannot happen elsewhere as the proposal fundamentally relates to the change of use of a building. The guidance is clear that a pragmatic approach on the availability of sites should be taken. For example the guidance suggests '*in considering extensions to existing business premises it might be in-practical to suggest that there are more suitable alternative locations for that development elsewhere*'. On balance, and given the principle issue is the change of use of a listed building and the extensions are to facilitate the use of student accommodation in the circumstances it is not considered necessary in this instance for the applicant to consider other locations which are in Flood Zone 1.

7.7.4 Whilst the exception test does not need to be applied, there are wider sustainability benefits with locating student accommodation in Lancaster City Centre and this has been supported by the Council through a variety of historic planning applications and is acknowledged to have a wider range of sustainability benefits. The application will also result in a re-use of a Grade II listed building and improvement to its overall appearance and that of the Conservation Area.

7.7.5 The Local Authority's Drainage Engineer raises no objection to the development but has commented that the culverted watercourse known as the Mill Race runs beneath the existing building. It is therefore recommended that a condition is imposed on any grant of planning permission requiring details of the Mill Races Protection.

7.8 Highways

7.8.1 County Highways raise no objection to the development subject to the provision of cycle storage, a construction traffic management scheme and the upgrading of the bus stops (adjacent to North Road). The conditions are seen as reasonable as there is no current shelter on the North Road. Whilst not requested by the Highway Authority, swept path analysis has been submitted to demonstrate that refuse and emergency vehicles can enter and safely exit the site. The County have requested the cycle parking for 15 cycles is provided for, given the close proximity of the bus stop (adjacent to the site) this is considered acceptable. Overall in highway terms the scheme is acceptable subject to conditions being imposed.

7.9 Ecology

7.9.1 Given the interventions to the roof space, a bat survey was requested during the determination of the planning application as given the age and construction of the building it may potentially have been suitable as bat roosting habitat. A bat survey was therefore provided including emergence and activity surveys undertaken in line with Best Practice Guidance, which concludes no evidence of bats using the building, with the building having a low-negligible potential to support bats. The Councils ecological consultants have offered no objection to the scheme and agree with the findings as contained within the submitted report. The development is therefore acceptable in ecological terms and complies with Policy DM27 of the Development Management DPD.

7.10 Air Quality

7.10.1 An Air Quality Assessment has been submitted which states that the predicted pollutant concentrations at the proposed development are to be below the air quality objectives. The assessment has been reviewed by Environmental Health Officers, no objection has been raised, however they have recommended a ventilation system is incorporated into the design. No detail of the air inlet is proposed as part of this scheme and a concern of officers is that the means of ventilation has not been demonstrated within this submission, the applicant maintains that it would be unusual to provide this as part of a planning application. The Air Quality Officer is content with windows to be opening however there should be a management system in place to ensure all occupants are clearly advised of the reason and purpose for the ventilation system. Therefore this is considered acceptable. As part of any planning approval, a condition is recommended to secure details of ventilation measures.

7.11 Other Considerations

7.11.1 The applicants propose to site their refuse store to the west of the current building and details of the treatment of this can be controlled by planning condition. It is considered by the Waste and Recycling officer that the refuse area is a little small for a development of this size and have recommended 4 x 1100 bins for general refuse and 6 x 360 bins for recycling. The response from the Waste and Recycling Officer can be relayed to the applicant to make them aware of the requirements. The applicants proposals also include signage (similar to what is contained on the other Cityblock developments), this would need to be sought through an advertisement application and therefore this will feature as a note should members opt to support a scheme. No contaminated land assessment was submitted with the application, however the contaminated land officer has requested conditions associated with contaminated land and given the footprint of the building does indeed increase and a more vulnerable receptor will be utilising the building it is considered appropriate to include a condition to this effect.

8.0 Planning Obligations

8.1 None applicable.

9.0 Conclusions

9.1 The Committee are tasked with a difficult decision. This report is far more technical in nature than many reports for development proposals that are comparatively similar in size. The Sugarhouse has a long established use and is an asset to the student experience in Lancaster. Case law would advise that reasonable steps should be taken to mitigate noise impacts. LUSU have undertaken a critique of the noise assessment. However - in the opinion of officers and their appointed consultants and Environmental Health - the scheme as now proposed would not give rise to actionable noise complaints. Moreover, Environmental Health Officers and their appointed consultants are now satisfied that assuming the development is constructed in accordance with the plans and conditions attached to the permission, that noise will not cause a loss of amenity for future occupiers and with this is unlikely to lead to actionable noise nuisance complaints.

9.2 The Local Planning Authority is supportive of the re-use of this listed building for student accommodation and it is apparent that applicant has good intentions to preserve the building for years to come. The applicant has demonstrated to the satisfaction of the City Council, Lead Local Flood Authority, City Councils Drainage Engineer and Environment Agency that the development is

flood resilient; in heritage terms whilst there would be harm to the rear elevation of the building and changes internally this would not amount to substantial harm, and given the improvements proposed to the frontage it is considered that the development would enhance the character and appearance of the Conservation Area, and would help to preserve the listed building for generations to come. Overall the scheme would offer acceptable living conditions. It is therefore recommended that the development is supported and planning permission granted.

Recommendation

That Planning Permission and consent for Relevant Demolition **BE GRANTED** subject to the following conditions:

1. Standard 3 year timescale
2. Development in accordance with approved plans
3. Construction Management Scheme (Pre-commencement)
4. Contamination Assessment (Pre-commencement)
5. Archaeological Building Recording (Pre-commencement)
6. Surface water drainage scheme (Pre-commencement)
7. Foul drainage (Pre-commencement)
8. Flood evacuation procedure and development in accordance with Flood Risk Assessment including measures
9. Materials - details of all elevational, rainwater goods, roof and surface materials required (pre-construction above ground level)
10. Security Measures
11. Landscaping scheme for rear façade courtyard (details of the materials and landscaping) (Pre-occupation)
12. Refuse and Cycle storage (Pre-occupation)
13. Improvement of Bus Stops (Pre-occupation)
14. Finished Floor Levels as per Flood Risk Assessment
15. Noise Condition (47dB Leq at 63Hz and 41dB Leq at 125Hz within bedrooms, and 52dB Leq at 63Hz and 46dB Leq at 125 Hz within living rooms with windows shut and other means of ventilation provided). Scheme to be implemented in accordance with the specification as contained within PDA September 2016 Noise report (Ref 8885/1936/ECE/02)
16. Prior Occupation condition to ensure that noise limits described in condition 15 are met (Prior Occupation)
17. Means of Ventilation to be provided for (Prior to Occupation)
18. Scheme for the Protection of the Mill Race (Culvert)
19. Restriction of accommodation to students

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

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

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

Background Papers

None.