

Agenda Item	Committee Date	Application Number
A5	9 January 2016	16/01155/FUL
Application Site St Leonards House St Leonards Gate Lancaster Lancashire	Proposal Change of use of offices (B1) to student accommodation comprising of 80 studios, four 4-bed, seven 5-bed and eight 6-bed cluster flats (C3), student gym (D2) and ancillary communal facilities with associated internal demolition and alterations, installation of a replacement roof to create additional living accommodation and recladding of existing rear stairwells	
Name of Applicant Mr Dan White	Name of Agent Mr Sean Hedley	
Decision Target Date 15 December 2016	Reason For Delay Addressing noise concerns and independent viability review	
Case Officer	Mr Mark Potts	
Departure	No	
Summary of Recommendation	Approval	

(i) Procedural Note

St Leonards House falls within the ownership of the City Council and a site visit was arranged for Elected Members, and was undertaken on 7th November 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 heritage concerns.

1.0 The Site and its Surroundings

1.1 The application proposes the change of use of St Leonards House (which is within the ownership of the City Council and is Grade II listed), and was initially a furniture factory (in connection with the Waring and Gillows showroom on North Road), then used by Lancaster University, the Adult College and more recently was utilised as City Council Offices until 2009, and it has been fully vacant since 2014. Whilst one building it does have two distinct elements to it, consisting of the original building constructed in the 1880s, and a second element which is of a concrete frame built in around the 1920s. The 1880s element is of 4 storeys on the St Leonards Gate elevation, of square coursed sandstone with a slate roof plus a clerestory attic storey of timber casement windows with glazing bars under the slate roof. The 1920's element is also of 4 storey on the St Leonards Gate elevation plus the clerestory attic and is of concrete construction with timber windows.

1.2 To the north of the proposal lies the Sugarhouse Nightclub with the Gillow's building beyond this on North Road (which members resolved to approve for student accommodation (ref 16/00274/FUL) on 12th December 2016), and also a former factory building which is locally listed. St Leonards House is physically connected to built form to the north east and south west, and to the east lies St Leonards Gate and beyond this are Council owned car parks. The Grand Theatre is located opposite the southern-most element of St Leonards house (circa 9 metres away) which is Grade II listed.

1.3 The development is located approximately 225 metres to the north-east of Lancaster City Centre and falls within the Lancaster Conservation Area, and parts of the rear façade of the building lie within Flood Zone 2. The development is approximately 230 metres to the south of the River Lune Biological Heritage Site and located 2.75km to the west of the Morecambe Bay Special Area of Conservation (SAC), RAMSAR, Special Protection Area (SPA), and Site of Special Scientific Interest (SSSI).

2.0 The Proposal

2.1 The application seeks the conversion of St Leonards House to student accommodation. The scheme seeks planning permission for 80 studio apartments, four 4-bedroom, seven 5-bedroom and eight 6-bed cluster flats. Communal uses are found to the basement level to include a gymnasium, bin stores, plant stores, laundry facilities and bicycle storage. The upper ground floor would consist of a total of 33 bedrooms being a mixture of cluster and studios. On the first floor, second and third floors there would be 37 bedrooms on each floor with there being 11 studios and the remainder bedrooms associated with cluster flats. On the fourth floor (within the new curtainwall structure) 36 studios are proposed.

2.2 The scheme seeks to remove the internal structure of the 1880s building, which has been found to be insufficient to support a new use in its current condition and the insertion of a new internal structure (the existing walls will be retained). The scheme looks to remove the clerestory roof to both elements of the building and replace this with a wider curtainwall structure. There are two existing stair towers to the rear of the St Leonards House which are proposed to be re-cladded. The existing timber windows are to be replaced with double glazed and secondary glazed windows within a wooden frame and partitions will be created internally to allow for the formation of the student bedrooms.

3.0 Site History

3.1 The site has been the subject of numerous uses as outlined in Section 1.1, however the most relevant planning applications relate to the below.

Application Number	Proposal	Decision
16/01156/LB	Listed building application for the removal and reinstallation of the internal structure of the building, installation of a replacement roof to create additional living accommodation, re-cladding of existing rear stairwells, installation of replacement windows and doors to all elevations, insertion of partition walls to all floors, reinstate windows, removal of ground floor canopy and windows and installation of louvers to the rear elevation, installation of a window to the side elevation, rendering of walls to concrete framed building to facilitate the change of use of offices to student accommodation	Pending Decision
16/00684/PRETWO	Part-demolition of internal levels and conversion to form 178 student apartments	Advice Provided

4.0 Consultation Responses

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

Consultee	Response
Historic England	Raise concerns regarding the level of intervention to the building. Assuming the viability statement is sound, then whilst considering that the level of harm caused would be regrettable, they would reluctantly accept this as justification.

Victorian Society	Objection to the development, as the implementation of the scheme would cause substantial and unjustified harm to a nationally important building, undermining its special interest to such an extent will jeopardise its Grade II listed designation.
Twentieth Century Society	Objection to the amendments to the 1920's element of the building as the new partition walls will break up the wide window bays and consider that the walls are altered to accommodate this change.
Lancaster Civic Society	Objection to the scheme although welcomes the re-use of the building however concerned regarding the loss of the clerestory level and would wish to see this rebuilt and reinstated.
Conservation Officer	Whilst not raising an objection does have concerns regarding the extent of the curtainwall structure being the full width of the building and the alterations do detract from the historic merit of the listed building. Consider that the recladding of the stair towers have the opportunity to minimise negative visual impacts of the towers. Conditions are suggested concerning details of windows, doors, cladding, roofing materials, rainwater goods and the location and re-use of the cast iron columns.
Society for the Protection of Ancient Buildings	No observations received within the statutory timescales.
Lancashire Archaeological Advisory Service	No Objection however a condition should be imposed regarding a Level 3 building survey.
Ancient Monuments Society	No observations received within the statutory timescales.
Council for British Archaeology	No observations received within the statutory timescales.
Georgian Society	No observations received within the statutory timescales.
County Highways	No objection (18 October 2016) - recommends that site servicing requires consideration, together with a public bus service provision on St Leonards Gate. Recommended conditions include: Construction traffic management plan; Covered and secure cycle storage (60 spaces); Ability to leave and enter in forward gear; Off-site highway works (priority vehicle feature on St Leonards Gate in vicinity of Phoenix Street and one in the vicinity of the Grand Theatre; and a Travel Plan. (6 December 2016) - Following the receipt of amended information the County still maintain there is a requirement for traffic calming pedestrian improvements needed to be made on St Leonards Gate and without it would have to Object to the development.
Environmental Health Officer (Noise)	Whilst initially had concerns with the scheme, raises No objection subject to conditions controlling 47dB at 63Hz and 41dB at 125Hz within habitable spaces with windows shut and other means of ventilation and a pre-occupation condition to ensure the above is met.
Environmental Health Officer (Contaminated Land)	No objection , however recommends conditions associated with Contaminated Land.
Environmental Health Officer (Air Quality)	No objection , recommends that if parking is being provided that electric vehicle charging points are provided and recommends a scheme of ventilation.
County Strategic Planning	No observations received within the statutory timescales.
University of Cumbria	No observations received within the statutory timescales.
Lancaster University	Raise Concerns - Is there sufficient and appropriate student demand for the development; The loss of this site to potentially benefit much wider city regeneration and economy; The development could trigger the loss of the Sugarhouse; Noise mitigation is not tested; The alterations to the building could threaten its value as a Grade II listed building.
Lancaster University Students Union	Objection to the development and raise concerns with the applicants noise assessment (have commissioned their own critique of the noise assessment) and lack of regard for the assessment of the 1/3 octave band. Request that fully sealable

	windows, a further noise assessment, and Section 106 obligations restricting the ability to vary the nature and scope of noise attenuation. LUSU consider that the applicant should enter into a deed of easement of noise with LUSU such that any future occupier of the development would be fettered from pursuing actionable nuisance complaints.
Engineering Team	No observations received within the statutory timescales.
Environment Agency	No objection , however recommend there should be no sleeping accommodation on the upper ground floor.
Fire Safety Officer	No observations received within the statutory timescales.
Lead Local Flood Authority	No objection
Lancashire Constabulary	No objection , standard advice regarding secured by design standards
Forward Planning Team	No observations received within the statutory timescales.
RSPB	No observations received within the statutory timescales.
Car Parking Manager	No objection , however resident parking permits will not be available
City Council Estates Manager	No objection and supports the scheme

5.0 Neighbour Representations

5.1 The application has been advertised in the press, by site notice and adjoining properties/businesses consulted by letter.

To date there has been **534** letters of objection received in relation to the scheme;

- Noise complaints will come from the students who will reside in the St Leonards House;
- Too close to the Sugarhouse Nightclub and will create unacceptable noise levels for occupiers;
- Threaten the viability of the Sugarhouse and jeopardising Lancaster's night-time economy;
- People will no longer wish to study at Lancaster if the nightclub closes;
- Is further student accommodation actually needed;
- More needs to be done to protect the Sugarhouse from any complaints;
- Further assessments needs to occur.

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 Local Planning Policy Overview – Current Position

At the 14 December 2016 meeting of its' Full Council, the local authority resolved to undertake public consultation on:

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

This will enable progress to be made on the preparation of a Local Plan for the Lancaster District. It is envisaged that the public consultation will commence on 27 January 2017 and conclude on 24 March 2017, after which (if the consultation is successful), the local authority will be in a position to make swift progress in moving towards the latter stages of; reviewing the draft documents to take account of consultation outcomes, formal publication and submission to Government, and, then independent Examination of the Local Plan. If an Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council, potentially in 2018.

The **Strategic Policies and Land Allocations DPD** will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2016, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan's preparation progresses through the stages described above.

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

6.3 Lancaster District Core Strategy (adopted July 2008)

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

6.4 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

6.5 Strategic Policies and Land Allocations DPD (Consultation 2017)

Policy EN3 – Lancaster Heritage Action Zone

6.6 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;
- English Heritage – Conservation Principles, Policies and Guidance (April 2008).

7.0 Comment and Analysis

7.0.1 The application generates consideration of the issues as noted below;

- Principle of student accommodation
- Noise considerations;
- Lancaster University Students Union – Noise Concerns;
- Heritage Considerations;
- Design and Amenity Considerations;
- Highways;
- Ecology;
- Flooding;
- Air Quality and contaminated land;
- Public Realm

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 in close proximity 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, the University raised the same concerns with the Gillows application (Ref 16/00274/FUL) and on this application, officers wrote to the University to ask for their future projections as to whether additional student accommodation is indeed required, unfortunately no response was received. 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 bedrooms, 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 adjacent 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, although it abuts it. Therefore, in planning terms this cannot be sustained as a reason for refusal.

7.2. Noise Considerations

7.2.1 A fundamental issue arising from this application relates to noise, and as such this report considers the noise issues in considerable 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 3 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 (to the north west of the site being located approximately circa 70 metres to the nearest façade of the St Leonards House 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. Given Officers' experiences on the Gillow's application, at the pre-application stage for this application the applicants were advised to undertake their noise assessment with the *Manchester City Council's Planning and Noise Technical Guidance* in mind 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 raise to 'actionable' complaints. The applicant has been amenable to undertaking their assessment with full regard to this methodology. There are other authorities who have less onerous requirements, such as Kirklees Council and Sheffield City Council. 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 12

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.

Applicant's Noise Report

- 7.2.4 The applicants engaged in the Local Authority's pre-application advice service earlier in 2016, and this was followed with two pre-application meetings between officers and the applicant's project team. Given the noise concerns which were raised with respect to the change of use of the Gillow's building into student accommodation (Ref: 16/00274/FUL) it was resolved (in advance of the planning application being submitted) that it would be prudent to have the applicant's noise report independently reviewed. The critique of the report was received by the Local Authority on 8th September 2016 and raised a number of concerns; as the initial report was based on a single calibration position, and the report demonstrated non-compliance with the noise limits within the ground floors and there was a lack of assessment of other transmission paths such as via the roof. In the same manner as the Gillow's application the Local Authority opted to utilise the services of 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.
- 7.2.5 The applicant undertook noise surveys between 25th-31st May 2016 and then between 12th-18th July 2016 (to measure impact from the re-opened Yorkshire House Pub). The applicants considered that assuming the glazing and the ventilation they proposed was implemented, then the internal noise levels within bedrooms would achieve the relevant limits. Following the initial review of the noise assessment in September 2016, further information was submitted by the applicants acoustician to attempt to address the concerns raised by Martec, however following review on 8th October 2016 it was deemed that there was still insufficient information to enable a decision to be reached and it was requested that all the measurement data (as originally requested) were presented together with the predictions of the uppermost floors, which had been omitted. A meeting on 14th October 2016 was convened between Council Officers, Martec, and the applicant's project team including their acousticians, to discuss the shortfalls in the report and to establish what further information was required to enable a decision to be made on the application. Following the meeting the applicants provided an additional response on 21st October 2016 which went to address the following issues;
- Uncertainty in the CadnaA modelling (Noise prediction software);
 - Reverberation Time in Rooms;
 - Breakin calculations for varying room types;
 - Façade corrections and the uncertainties in Insul;
 - Roof Construction Type;
 - Room ventilation.
- 7.2.6 There was a further suite of breakin calculations provided on 31st October to validate the findings of the report and this was supplemented by a further technical note dated 27th October. This was reviewed by Martec and it was concluded that there appeared to be outstanding issues with the applicant's prediction model. It was determined that either further measurements should be undertaken, or a new prediction model created to fit the measurement data at the four zones. The applicants updated their noise model, based on further assessments of the nightclub building and associated noise egress. Further survey data has been produced to assess the impact on the proposed top floor spaces of the rear façade of the building (which faces the nightclub). The surveys were undertaken on 23rd & 24th November 2016 (Wednesday and Thursday) at the top floor locations and worse case noise levels as measures were used to assess ingress into the proposed top floor spaces.
- 7.2.7 Rather than using the CadnaA predictions for the rear façade, the applicant's acoustician was now using measurements made at various times and for various periods and given this amended information and approach it was considered that noise levels in the critical 63 Hz band would be met in both the lower and upper floors of the rear façade. In the 1880s part of the building the noise limits are proposed on the limit at 47 Db, and Zone B (the concrete frame) at 46Db. Whilst on the limit, the applicants have addressed the concerns regarding modelling by ceasing to use it. In order to ensure compliance, however there has been changes proposed to the window arrangements as several of the bedrooms were proposed to have two windows which would have increased the internal levels

and they have now recommended that these windows will be encapsulated and amended plans were received in this regard. There is a need to ensure compliance with the limits to have a significant void space between the layers of acoustic glazing (up to 500mm void space between sets of windows), the proposed curtain walling structure also would need to be constructed in accordance with the submitted details. The applicant has confirmed that none of the windows would be capable of being opened (apart from three on the gable elevation) and that a mechanical ventilation would be utilised throughout the development. With that arrangement, no objection is raised by Martec.

7.2.8 Environmental Health have fully reviewed all of the information received in connection with this application from both the applicants acoustician and Martec, and they are satisfied that the applicant has demonstrated that a robust noise assessment has been undertaken in connection with the proposed development. In their opinion the assessment concludes that with appropriate sound insulating materials being implemented within the design that the guideline criteria will be met and that is unlikely to be unreasonable noise impacts. Unlike on the Gillow's where a relaxed limit within living spaces was agreed, there is no need for such a relaxation on this scheme this is due to the configuration of this scheme. They have recommended the same conditions as what was suggested on the Gillow's application. Urban Vision have provided a response, and support the stance of the Environmental Health however a condition on ventilation and plant and machinery noise. Condition 17 concerns ventilation, and the views of Environmental Health will be sought on the control of plant and machinery noise and members updated verbally.

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. Whilst not received in relation to this application, 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, and with this brings significant social and economic benefits to the City. 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 and considers that possible restrictions could be imposed on the nightclub if further assessment and mitigation calculations are not undertaken prior to a decision being taken on the planning application. LUSU say that Leeds City Council advice on noise surveys does advocate that the 1/3 Octave band should be considered. The same issues

were raised in the consideration of application 16/00274/FUL (Gillow's) which Members resolved to approve at the 12th December 2016 Planning Committee meeting.

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 considered this suggestion from LUSU on application 16/00274/FUL 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 and that Leeds City Council includes the assessment of the 1/3 octave). Martec's response on this matter in relation to the Gillows application 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. On application 16/00274/FUL 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 Whilst LUSU have concerns it is clear from their written representations (and indeed their verbal representation at the December planning Committee in respect of the similar Gillow's application) that they are not entirely opposed to the proposal, but are concerned about the future of the nightclub. This is understandable and is why they have sought to seek expert advice. Their consultants recommend that fully-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 St Leonards House 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 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, and the local authority adopted the same position on the Gillow's application.

7.3.7 With respect to measures to control noise emanating from inside the Sugarhouse, in October 2016, the applicant 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, LUSU, Lancaster University and Cityblock, 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). 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, but are open to further dialogue on this point (as well as understanding how and when these works would occur). This is a stance that was echoed also during the determination of the Gillow's application. 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 Unlike on the Gillow's application, the applicant is proposing that none of the windows are capable of being able to be opened (apart from three on the gable end to allow for cleaning) and that mechanical ventilation will be the only form of ventilation. 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 In respect of the two questions posed at paragraph 7.3.2, 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. However it would be fair to suggest that the applicant has benefited from learning as to how Gillow's application progressed from a noise perspective and understood the need to adhere to the limits from pre-application stage, and unlike on the Gillow's, whereby there was a number of iterations to the scheme to ensure compliance, the scheme before Members has developed with the limits in mind from day one. 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. As with the Council's resolution on the Gillow's, a condition controlling noise within St Leonards House and also a pre-occupation condition is also needed. 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.

Noise Conclusions

7.2.11 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, who advised the local authority on the merits of the Gillows application. 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 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.

7.4 Heritage

7.4.1 In accordance with the Listed Building and Conservation Areas Act 1990, 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 Development Management 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 detailed and considered heritage appraisal (evidenced by viability work and structural surveys) 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 asset affected.

7.4.2 The scheme proposes the removal of the internal structure of the 1880s building together with the insertion of a new internal structure within the existing walls. The clerestory attic roof to both elements of St Leonards House is proposed to be removed and this will be replaced by a new curtainwall structure of similar height but an increased footprint (almost the full extent of the building) and with a slight pitch to the roof. The two existing stair towers to be rear elevation are proposed to be re-cladded in Marley Equitone or similar.

7.4.3 The existing timber windows are proposed to be removed and replaced with new double glazed and secondary glazed windows (within a timber frame), and new partitions will be installed to create the new rooms. There will also be the opening up of a previously bricked up window opening to the north elevation to create new windows, together with a new window to the western elevation. Aluminium doors will replace the existing modern doors and windows, with the removal of windows to be replaced with louvres to the North elevation. The concrete framed building will also be re-rendered externally together with the removal of a dilapidated canopy on the rear elevation.

7.4.4 Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out how the Local Authority should deal with applications to Listed Buildings and within Conservation Areas. It states,

'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting of any features of special architectural or historic interest which it possesses'.

Given the level of intervention it is important to understand the significance of St Leonards House by understanding its history of development, and the NPPF notes that significance derives not only from the physical presence of the heritage asset but also from its setting. Historic England in its Conservation Principles (2008) guidance states that the significance of a place embraces all the diverse cultural and natural heritage values that people associate with it, and range from evidential to historical, aesthetic through to communal values.

7.4.5 The applicant has concluded that the evidential value of the building is of medium significance, namely because of the modern interventions to the building (internally this is very apparent). There are cast iron columns that do remain, as does the clerestory roof, and the applicant considers whilst contributing to the evidential significance, in isolation these are not unique or so unusual in design. With respect to the historic value of the building this is considered to be high-significance given the use of the building by the Gillow Factory associated with furniture making. The aesthetic value is considered overall to be medium-to-high value (owing in part to the clerestory roof) and also the aesthetic significance of the early design of reinforced concrete, however there is less intervention to the 1920s building as opposed to the 1880s structure. On balance it is considered that the building is of medium significance when assessed against the criteria as set out in the Conservation Principles by Historic England. The applicants consider that the 1880s element has historic interest but consider that the 1920's building to be considered of greater architectural and historic interest due to the early use of reinforced concrete.

7.4.6 The NPPF at Para 132 discusses the need for clear and convincing justification, should harm or loss arise as a result of development. Much of the harm proposed by this proposal is internal; however the building has been the subject of extensive modern internal alterations. The loss of the clerestory roof – a feature that does contribute to what makes the building special – is especially regrettable as it is considered by many to be particularly attractive and of architectural merit on the 1880s element of the building (less so on the 1920s concrete framed building).

7.4.7 The application does raise a number of concerns from a heritage perspective, however on balance officers consider that the development amounts to less than substantial harm and therefore Paragraph 134 of the NPPF is engaged. There are many public benefits associated with the scheme which includes bringing the vacant building back into use, and the wider regeneration this would help support in this part of Lancaster. The applicants do acknowledge that harm will be caused by the proposal, and following advice at the pre-application stage they supplied a structural report and viability appraisal to demonstrate that the harm is necessary, and that a repair option is not viable in

this instance. The applicants structural report states that the existing fabric is not capable of repair in a manner that would allow the building to be commercially viable for reuse and for this reason the LPA have sought an independent review of the structural report (Para 7.4.10–7.4.11).

- 7.4.8 The Conservation Officer considers that the scheme appears to overlook the conservation principles associated with minimal intervention and the need for preservation as there is extensive remodelling of the building, and does raise concerns with the introduction of the new curtain walling structure and considers that the proposed new addition does create a somewhat distracting feature. Officers have always been keen to ensure that the curtain walling structure remained in a similar footprint to the current position as this is a very distinctive feature of the building, and provides a link to the industrial heritage of this aspect of the Conservation Area and this has been conveyed during the pre-application route. Officers did consider that a lightweight structure was the preferred option for any alterations to the attic storey as this would relate to its current construction/appearance and could assist to mitigate the negative impacts of any alterations to the Listed Building. Regrettably the amended detail (presented at pre-application stage) which looked to increase the transparency of the structure and to align glazing with the window pattern below has not been achieved. The existing building and clerestory is uniform and rhythmic in its appearance, and the window pattern of the clerestory should have matched this. The Conservation Officer whilst not objecting does have concerns and these are shared by Officers, however on balance Officers do consider that it would be possible to secure curtain wall glazing here and that it will not emphasise the disconnection in styles and patterns. The rationale for more curtain walling as opposed to glazing is because of the need for sound attenuation which has developed since officers saw sight of the more lightweight structure and therefore there is some justification for why these changes have occurred, nevertheless in an attempt to mitigate noise issues arising from the Sugarhouse, this has in the opinion of officers been detrimental to the design of the curtainwall structure. It is worthy of note however that Historic England have not commented on the design of the curtain-walled roof and therefore it is concluded that they do not oppose this element of the development.
- 7.4.9 Historic England were engaged at pre-application stage given that there is substantial demolition of a Grade II listed building. Historic England agree with the applicant's stance that there is a high level of harm (but this is not substantial harm) on the basis that the loss of the internal structure would remove a section that was designed as a direct result of the needs of the original function of the building (given space and light was needed for the construction of furniture). Historic England recommended that the Local Planning Authority undertook an independent appraisal of the applicant's viability assessment to ensure that the decision maker is satisfied that the demolition and reconstruction works are the only way to secure a future for the building and other options for the repair and reuse of the building have been found to be untenable. Historic England are prepared to accept the level of harm assuming the viability assessment was found to be sound.
- 7.4.10 The Local Authority appointed Gleeds Building Surveying to review the applicant's viability appraisal. They are a company have been operating for over 100 years and have 59 offices world-wide. The Authority also appointed AECOM, a worldwide multi-disciplinary consultancy to review the applicant's structural survey to allow for the decision maker to take a view as to whether the level of intervention is necessary to secure the long term future of this building, or whether a less harmful approach could be adopted. The option to replace the structure amounts to 179 bedrooms as opposed to the repair option which would provide for 162 bedrooms, fundamental to this is increasing the footprint of the clerestory roof to allow for additional bedrooms, given utilising the existing footprint was not seen as viable.
- 7.4.11 The AECOM review of the structural report has incorporated visiting the site. The conclusion is that a repair solution is considered not to be structurally viable on the basis that there is deep creep deformation and the inadequate future use strength within the timber floors could not facilitate development. They consider that the replacement solution is considered to be structurally viable and the designed structural solution mitigates what is considered to be an extremely high risk of adopting an existing structural element for a building required to provide a 50 year design life. The applicant's viability statement has been reviewed by Gleeds who confirm that to repair the structure would be unviable and that the structural replacement option is the only viable option of the two. With this in mind there is confidence that to facilitate development here that harm will need to occur.

- 7.4.12 The Victorian Society understand the need for the building to find a new use, however they consider that there may be other possible uses for the building and that they consider that the scheme would amount to substantial harm which could lead to its listing being removed and that the application should be refused planning consent. The National Planning Practice Guide discusses that substantial harm is a high test and has to be based on the degree of harm to the asset's significance rather than the scale of development that is to be assessed. It is important to note that neither Historic England nor the Conservation Officer consider that the development amounts to substantial harm. The building has been vacant for a number of years and has been marketed, however given the size and nature of the building there has been little appetite from willing developers. The scheme before Members seeks to secure a long term future for the building, bringing it back into re-use and therefore Officers are satisfied that even though there is high level of harm this is necessary to ensure that the building is brought back into use.
- 7.4.13 The 20th Century Society consider that the wide window bays will be broken up as a result of this application due to the layout of the development which will mean that where there is clear glazing this will be replaced by some form of reflective glass to screen the partition wall arrangements. This is particularly evident on the 1920s building of which the 20th Century Society have greater interest in. The concerns are noted, and officers do consider that this is a weakness of the scheme, but the existing fenestration of the windows does still remain and assuming that an appropriate glazing finish is chosen this could mitigate some of the impact as the windows will still remain, and many people have blinds shut or curtains drawn, but crucially the wide bay windows will still remain here.
- 7.4.14 Whilst a number of concerns have been expressed by many of the heritage professionals, it appears from the viability and structural reviews that opportunities to bring this building back into commercial use are limited and without the level of intervention proposed it would not be deemed viable. It is regrettable a scheme utilising a similar arrangement to the existing lantern cannot be delivered, however it is clear that to enable this building to be brought back into use a high level of intervention (and high level of harm) is needed and that it is considered that the scheme would assist in preserving the Conservation Area and the wider regeneration benefits including bringing a significant listed building back into use is considered to outweigh the harm that has been identified and therefore the scheme accords with Paragraph 132, 134 and 135 of the NPPF and Policies DM30-34 of the DM DPD.
- 7.5 Design and amenity considerations
- 7.5.1 The scheme proposes a mixture of studios and cluster flats. The Council's adopted position in terms of cluster flats is that there should not be more than six bedrooms per the unit of accommodation and bedrooms should be at least 11sqm (with an en-suite). The scheme has benefitted from pre-application assessment, as now all the cluster flats conform to standards and it is considered that outlook for future occupiers would be acceptable. Where outlook is compromised, larger units of accommodation have been provided to offset this loss. With respect to the studio accommodation, the Council's adopted position is for these units of accommodation be a minimum of 19sqm, the majority of the units of accommodation are in excess of the minimum standards with the remaining units measuring 18sqm. On balance this is acceptable as there are some larger studios of 22sqm together with communal space, meaning that the scheme provides appropriate levels of living accommodation. Unlike many schemes where there studio accommodation is separate from cluster flats the scheme proposes to mix these on the same floor assisting in occupier integration.
- 7.5.2 There is little alteration to the St Leonards Gate elevation apart from the new glazing, new curtain walling, provision of new replacement doors and the creation of a new entrance. On the concrete framed building it is proposed to clad in insulated render. The fundamental change in appearance relates to the provision of the new replacement roof system and to facilitate this the existing stone gable (on the 1880s element of the building) is proposed to be reduced in height and unlike the existing clerestory extension this is increased in width and is now only slightly recessed, however the roof would slightly overhang. In design terms the loss of the existing structure to be replaced by something more functional and less distinctive is a significant weakness of this scheme (particularly given the prominence of the building when seen from within the Conservation Area, and further afield such as at St Georges Quay); as is the applicant's ability not to have this as a more lightweight structure which Officers supported at pre-application stage (despite reservations over the width of the structure). However this now contains far more curtain walling with a low reflectivity glass. The applicant has tried to address concerns by increasing the width of windows to mirror the lower ground floors (where they can on the St Leonards Gate frontage), but because of the need for noise

mitigation this has resulted in the design that has suffered from this mitigation, which is unfortunate. However on balance neither the Conservation Officer or Historic England object to the development in terms of the amendment to the roof space. The Civic Society raise an objection on the loss of the clerestory, this is fully noted and as previously expressed within this report Officers have always sought for a structure which looked to emulate the proportions of the existing clerestory. Following meetings with the applicant it is considered that on balance curtain walling could be found acceptable, however this relies on agreement of the choice of glazing to be used, which is a matter that can be secured by means of planning condition.

7.5.3 In order to configure the internal layout there are a number of dummy windows included, predominately on the concrete framed building but also to a lesser extent on the 1880s building. This is noticeable on both the St Leonards Gate and also the North Road façade with the applicant recommending that low reflective glass would be utilised here. As noted previously in the heritage assessment of the scheme there has been concerns raised regarding the positioning of the new partition walls which will break up the wide window bays which does contribute to the merit of the listed building. This is rather unfortunate and something that would unlikely occur on a new purpose built building but it is a problem when attempting to propose a change of use application. Conditions can be imposed which address this to ensure that the glazing is as natural as possible to allow for the change to be least visible. The case officer considered more lightweight glazed elements could be added to the stair towers to break the mass here (given there are existing windows proposed), however because of noise attenuation issues the applicant has confirmed this is not possible, however there would be a benefit in having the stairwells re-cladded in any event, it's just unfortunate something more beneficial could not be sought, or them removed altogether.

7.5.4 On balance it is considered that the design of the scheme has suffered from the need to mitigate noise, but overall from a design perspective the scheme is considered acceptable and would comply with Policy DM35 of the Development Management DPD.

7.6 Highways

7.6.1 The application is supported by a Transport Assessment (TA), however it would be an essentially car free development, albeit there is reference to 6 staff spaces and 2 disabled spaces parking within the applicants TA however this has not been translated on the plans and no parking is therefore proposed. No objection was initially raised by County Highways, however they have concerns with the scheme and would object to the application if St Leonards Gate was not the subject to some traffic calming measures to allow students to be able to safely walk into and out of the city centre. The proposed works consist of priority give way which will have the effect of reducing vehicle speeds along St Leonards Gate (which is currently used as a rat run). The County considers that these improvements should be located near to the junction of Phoenix Street and also close to the junction of Lodge Street (near Grand Theatre). This is in part due to inadequate footways and the speed that vehicles travel down St Leonards Gate. The applicant considered these works were unnecessary and commissioned their traffic survey on St Leonards Gate to demonstrate to the highway authority that St Leonards Gate was safe and that it would be unreasonable to ask for improvements. Following the receipt of the traffic counts in November 2016 the County have maintained their position with respect to these works needing to be undertaken, and without them they would object to the scheme. In the opinion of Officers the works are small scale, however would assist in facilitating the ease of movement and ensuring pedestrian safety along St Leonards Gate are considered necessary in this instance given the intensification of use of the building. Whilst the applicant considered they were not necessary and undertook their own measured speed analysis along St Leonards Gate they have not sought to challenge the stance of the County following their further response and the works should be addressed by means of planning condition.

7.6.2 The County have recommended it would be prudent to have bus service provision which would run along St Leonards Gate as there is no current bus route which uses this road, and whilst not far to either North Road (nearest bus stop) or the bus station consider that the number of students who would be travelling across town could be at the detriment of vehicle movements through the cities one-way system, (as students would be utilising the crossings). The call for a bus service is desirable; however it is not considered that it is essential to allow for the scheme to be approved and is therefore considered it would not meet the statutory tests (unreasonable). A condition could be placed on any planning permission requiring the applicant to provide a bus stop on either side of the road, however in reality this is unlikely to be unreasonable given there is no intended commercial bus route that is going to run past the development.

7.7 Ecology

7.7.1 The applicant's ecologist undertook an external and internal inspection of the building on 2nd June 2016. The results of the survey revealed a roof in relatively good state of repair and had no points with bat access potential. A full search of the building was undertaken and no evidence of bat activity could be evidenced. It has been concluded that the building does not have the potential to support bats. The building does however show extensive evidence of use by pigeons which poses a significant health risk. Officers are satisfied that the development does not pose a risk to protected species and therefore complies with Policy DM27 of the Development Management DPD.

7.8 Flood Risk and Drainage

7.8.1 The rear elevation of the building lies within Flood Zone 2, and the applicant has submitted a Flood Risk Assessment (FRA) in support of the planning application. Ordinarily for new developments within Flood Zone 2 (which this application partly is) it is recommended that ground floor levels are raised by a minimum of 300mm above existing ground levels. However given this is change of use this is not entirely possible to raise the ground floor accommodation higher than the existing floor level. The Environment Agency (EA) raise no objection to the development however have highlighted that flood waters extended across St Leonards Gate during Storm Desmond and that there is a lack of consideration of this within the applicants FRA. The recommendation is that there should be no sleeping accommodation on the upper ground floor if there is any likelihood of it being affected by flood waters. It should be noted that the development proposed to defend floor waters up to 8.1 metre Above Ordnance Datum (1 in 1000 year flood event).

7.8.2 The applicant has responded to the EA comments that St Leonards Gate did not flood during Storm Desmond and that the Upper Ground Floor where student accommodation is sited is above the flood level of Storm Desmond. It is considered likely that flooding on St Leonards Gate was more than likely through surface water as opposed to tidal, and the EA have since confirmed that this was the case. Officers are satisfied that the scheme poses little threat to providing student accommodation at the upper ground floor level and whilst concerns have been raised by EA no objection has been received and no objection has been received from the Lead Local Flood Authority. No conditions have been recommended by either of the statutory consultees however it is considered reasonable to ensure that the development is carried out in accordance with the submitted Floor Risk Assessment and that the drainage details for surface water are submitted for written approval to the LPA.

7.9 Air Quality & Contaminated Land

7.9.1 Whilst St Leonards House is not within an Air Quality Management Area the application has been supported by an Air Quality Assessment as there are concerns that the proposals will introduce future site users to poorer air quality. The overall conclusions of the report is that air quality issues are not considered a constraint to planning consent for the proposed development. The Council's Air Quality Officer has no objection to the development on the provision that ventilation is provided for, given mechanical ventilation is being provided for in any event (given the majority of windows are sealed) this is reasonable. The application is supported by a contaminated land assessment. The contaminated land officer raises a number of concerns with the applicant's contaminated land assessment, however critically does not object to the development and it is considered that the concerns raised can be appropriately controlled by the use of planning conditions.

7.10 Public Realm

7.10.1 Little in the way of public realm is proposed as part of this planning application, however there is an opportunity to undertake some small scale improvements to the rear of the building in terms of resurfacing. The applicants have proposed that the rear courtyard to its junction to Bulk Road will be resurfaced in tarmac, the area immediately to the north of the building will be replaced with blockworks in the form of Marshalls Tesclia or the like. Given the location within the Conservation Area it is considered that something more aesthetically pleasing could be achieved here and therefore a condition is recommended to control this.

8.0 Planning Obligations

8.1 Not applicable.

9.0 Conclusions

- 9.1 This report is far more technical in nature than many committee reports for development proposals, albeit the issues raised are similar to those recently debated during consideration of the Gillow's planning application (16/00274/FUL). On the issue of noise, 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. However there are concerns from a heritage perspective, particularly from some of the National Amenity Societies and at a local level from the Civic Society. There is harm created by the scheme both internally and externally, however this would not amount to substantial harm and the applicant has demonstrated to the satisfaction of the local planning authority that the harm is needed to bring this building back into viable use. It is considered that the development would preserve the character and appearance of the Conservation Area.
- 9.3 The applicant has demonstrated to the satisfaction of the City Council, Lead Local Flood Authority and Environment Agency that the development is flood resilient. 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 **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
12. Refuse and Cycle storage (Pre-occupation)
13. Section 278 works on St Leonards Gate to reduce vehicle speeds (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*). *Scheme to be implemented in accordance with the specification as described within the recommendations as noted by Red Acoustics.*
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. 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 that it 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