

<b>Agenda Item</b> A6	<b>Committee Date</b> 15 October 2018	<b>Application Number</b> 18/00885/VCN
<p align="center"><b>Application Site</b></p> <p align="center">St Leonards House St Leonards Gate Lancaster Lancashire</p>	<p align="center"><b>Proposal</b></p> <p align="center">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, installation of a replacement roof to create additional living accommodation and recladding of existing rear stairwells (pursuant to the variation of condition 2 on planning permission 16/01155/FUL to vary approved plans to provide for the lift tower to be rebuilt, together with alterations to the elevation treatments in the form of amendments to the flue positions, cladding and louvre panel amendments, modifications to condition 9 in relation to windows, replacement stonework, cleaning and cladding details, and amendments to condition 13 to provide for an amendment to the off-site highway scheme)</p>	
<p align="center"><b>Name of Applicant</b></p> <p align="center">Robertson Property Limited</p>	<p align="center"><b>Name of Agent</b></p> <p align="center">Mr Sean Hedley</p>	
<p align="center"><b>Decision Target Date</b></p> <p align="center">6 November 2018</p>	<p align="center"><b>Reason For Delay</b></p> <p align="center">Not applicable</p>	
<p><b>Case Officer</b></p>	<p>Mr Mark Potts</p>	
<p><b>Departure</b></p>	<p>No</p>	
<p><b>Summary of Recommendation</b></p>	<p>Approval</p>	

## **1.0 The Site and its Surroundings**

- 1.1 Planning permission 16/01155/FUL has been implemented for the change of use from former council offices to student accommodation at St Leonards House. The building 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. Whilst one building, it has 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 1920s 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 also benefits from consent for student accommodation under application 16/00274/FUL), 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 quantum of development and number of residential student units remains unchanged as part of the planning application, but the application proposes the following external changes:

- Lift tower to be rebuilt to match the existing;
- Flues relocated;
- Roof air intake removed;
- 2 no roof air exhaust removed from the roof;
- Position of satellite dish and TV;
- Smoke vents and access hatch added to the building;
- Louvre panels modified across both elevations;
- Provision of outdoor air conditioning units added;
- Panel sizes to the stair cladding to be amended;
- Access hatch upstands added;
- Depths of windows amended.

2.2 The application also proposes to amend the extent of the off-site highway works associated with the consent to now include a single raised table at the junction of Phoenix Street and St Leonards Gate.

## **3.0 Site History**

3.1 The site already benefits from planning consent for conversion of the building to student accommodation under a planning consent granted in 2017.

<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
18/01214/RCN	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, installation of a replacement roof to create additional living accommodation and recladding of existing rear stairwells (pursuant to the removal of condition 16 on planning permission 16/01155/FUL to remove the need for pre-occupation noise testing)	Pending Decision
18/00958/LB	Listed building application to remove and reinstate the internal structure of the building, install a replacement roof to create additional living accommodation, recladding existing rear stairwells, install replacement windows and doors to all elevations, insert partition walls to all floors, reinstate windows, remove ground floor canopy and windows and install louvers and flues, install window to the side elevation and television aerial and satellite dish, rebuild lift tower, and render walls to concrete framed building.	Pending decision
16/01155/FUL	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	Approved

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, recladding 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.	Approved following referral to the Secretary of State
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#### **4.0 Consultation Responses**

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

<b>Consultee</b>	<b>Response</b>
County Highways	<b>No Objection</b>
Conservation Officer	<b>No Objection</b> , though requests clarification on window details and for a sample to be provided to ensure that the detailing is appropriate.
Historic England	<b>No Observations to make</b>
Environmental Heath	<b>No Objection</b>
Lancashire Archaeological Advisory Service	<b>No Objection</b>
National Amenity Society	No Observations received within the statutory timescales;
Lancaster Civic Society	No Observations received within the statutory timescales

#### **5.0 Neighbour Representations**

5.1 One letter of objection has been received from Lancaster University Students Union (LUSU) who own the adjacent Sugarhouse Nightclub. LUSU considers that a further noise assessment is required to enable a decision to be taken on the planning application, and wish for the certainty that the pre-occupation noise monitoring condition is re-imposed.

#### **6.0 Principal National and Development Plan Policies**

##### **6.1 National Planning Policy Framework**

Section 4 – Decision Making

Section 16 – Conserving and Enhancing the Historic Environment

##### **6.2 Local Planning Policy Overview – Current Position**

At the 20 December 2017 meeting of its Full Council, the local authority resolved to publish the following 2 Development Plan Documents (DPD) for submission to the Planning Inspectorate:

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

This enabled progress to be made on the preparation of a Local Plan for the Lancaster District. The DPDs were submitted to the Planning Inspectorate on 15 May 2018 for independent Examination, which is scheduled to commence in early January 2019. If the Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council in mid-2019.

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 2017, 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

## **7.0 Comment and Analysis**

7.0.1 The main issues concerning the planning application relate to the following:

- Principle of development;
- Design;
- Highways; and
- Noise.

### 7.1 Principal of Development

7.1.1 When an application is made under Section 73 of the Town and Country Planning Act 1990 to vary conditions, the effect is the issue of a new planning permission which sits alongside the original planning permission, which remains intact and un-amended. Therefore, whilst the applicant has sought to vary planning conditions 2, 9 and 13 in essence the full suite of conditions can be re-considered. The principle of development has been approved by virtue of planning permission 16/01155/FUL and Listed building consent 16/01156/LB and therefore it is considered that the principle of development of the site for student accommodation has already been established.

## 7.2 Design and Heritage Considerations

7.2.1 Minor changes are proposed to the elevation treatment of the building namely:

- new ventilation and extract louvres
- the demolition of the existing lift shaft and reconstruction of a replacement to match; and
- variations to the recladding on the two existing stair towers on the rear façade of the building.

The applicant has sought to submit window details as part of the application (which were previously conditioned), and these are generally acceptable, though Officers would prefer them finished in an off-white rather than white, and in a satin or matt finish. There is also some concern regarding the timber sill proposed on the windows and it has been requested that this element is removed. Officers are liaising with the applicant's agent on this aspect. It is worthy of note that other than clarification of details by the Council's Conservation Officer there has been no objection from Lancashire Archaeological Advisory Service, Historic England, and there have been no observations received from the National Amenity Societies or Lancaster Civic Society. Other minor additions are proposed such as the inclusion of a satellite dish, TV aerial, smoke vents, and outdoor air conditioning units. These minor changes are all considered acceptable to Officers. It is therefore considered that based on the amended detail the scheme is acceptable from a design and heritage perspective and therefore accords with Policy DM35 of the Development Management DPD. The impact of the applicant's proposals from a heritage perspective are further considered in detail in the associated Committee report for 18/00958/LB.

## 7.3 Highways

7.3.1 The extant scheme included the requirement for the implementation of priority 'give and take' features on St Leonards Gate in the vicinity of its junction with Phoenix Street together with one to be constructed on St Leonards Gate. The application now only seeks to provide one raised table in the vicinity of the Phoenix Street junction. Whilst the extent of the highway works are somewhat reduced compared to those previously requested by the County, they have been consulted on this planning application and raise no objection. Given this, it is considered appropriate to amend the planning condition to ensure that the approved off-site highway works are carried out in their entirety prior to the building being brought into use.

## 7.4 Noise

7.4.1 The Sugarhouse nightclub via its planning agents have objected to the scheme on the basis that no noise assessment accompanies the planning application, and they consider that with the inclusion of louvres these would afford minimal noise attenuation. The Sugarhouse have also requested that the conditions associated with the noise mitigation outlined in planning conditions 15 (which details the noise limits) and condition 16 (the requirement for pre-occupation noise testing) on the extant consent are re-imposed should Members support this application. The observations of the Senior Environmental Health Officer have been sought on the application, who considers that the various amendments would not present any further noise issues to consider, and consider that the existing conditions for the original planning application will ensure that internal design criteria is satisfactorily achieved throughout the development.

7.4.2 This is in essence a new planning application, and therefore there is the opportunity to review all planning conditions associated with the scheme. Condition 16 provided for pre-occupation noise monitoring, and the methodology associated with this was partly discharged in May 2017. An application to remove the requirement for condition 16 on planning permission 16/01155/FUL was submitted in September 2018 under planning application 18/01214/RCN. This is not on the agenda for this Planning Committee given the application was only validated on 19 September 2018. The applicant has not sought to contest condition 15 on the permission which related to the overall noise limits and nor are Officers suggesting this is amended.

7.4.3 Members will be aware of a similar instance at the neighbouring Gillows building whereby a similarly worded planning condition was imposed on the consent. The developer sought to amend the wording of the condition via a Section 73 planning application, and Officers took Counsel advice from Kings Chambers who considered at the time the imposition of the condition could impose an unjustifiable, or disproportionate financial burden on the applicant. Whilst Officers do consider that there are differences between the two schemes, it is fair to suggest that other than the glazing of

window apertures, together with the new attic structure there is little else in the way of development that was required to mitigate noise unlike at the Gillows whereby a new full height double skin façade curtain wall was required and the testing between the two is quite different.

7.4.4 A linked appeal concerning the original condition being imposed on the Gillows consent, together with the Council's refusal of the Section 73 application for the Gillows which sought to modify the wording (appeal references APP/A2335/W/17/3192525 and APP/A2335/W/17/3179710) was lodged against the imposition of the planning condition / the Council's refusal (Members refused it against the Officer's recommendation) to remove the condition concerning pre-occupation noise monitoring. The Planning Inspector upheld the appeals and an award of costs against the Local Authority was successful (which is currently being negotiated by Officers). Given the Inspector's decision with respect to the Gillows, Officers feel that imposing the same condition again (albeit accepting it is partly discharged) would not pass the relevant tests for a condition as is emphasised by the below extracts from the appeal decision.

7.4.5 *'Condition 18 would therefore be superfluous not meet the Framework tests of necessity, precision or reasonableness. The development, without those requirements of condition 18, would still accord with the Local Plan Policy DM45 which, amongst other criteria, seeks to minimise noise pollution. There would be no conflict with Local Plan Policy DM46's approach to student accommodation or the Framework's requirements to avoid significant adverse impacts arising from noise'.*

*'The Council and nightclub owner have referred to the nearby St Leonards House where planning permission has been granted for a change of use to student accommodation which was subject to a similar post occupancy noise monitoring condition. The Council advise that this has been partly discharged by way of a noise monitoring methodology being approved. There are some similarities in the schemes, the effect of the Sugarhouse nightclub on future occupiers and the partial discharge illustrates that at least part of a similar condition is capable of being discharged'.*

*'However, the Council advise that the St Leonards House scheme did not include for similar substantial rear extension which the appeal development does. Furthermore, that such a condition was attached in that case does not in itself demonstrate that, in relation to the particular development and circumstances on the appeal site, condition 18 would meet the Framework tests conditions must meet'.*

7.4.6 Whilst under this planning application the applicant did not seek to amend the requirements of the pre-occupation noise monitoring, they have done so in respect of application 18/01214/RCN. Even if that application was not before Officers for consideration, the same view would have been arrived out given the Inspector's decision in the Gillows case as Officers can only impose a condition should it pass the relevant tests. The view expressed by Environmental Health is that they consider the pre-occupation noise condition would be un-necessary and unreasonable (based on the Inspector's decision at the Gillows). They also consider that the design of the building and the limits imposed by condition 15 will protect future occupants from noise impacts. With this in mind, it is considered the condition would not meet the Framework Tests and its removal would not harm the living conditions of future occupiers of the development nor be contrary to the Development Plan, or the Framework. Notwithstanding this an amended condition is required to ensure that the sound insulation requirements as set out in the applicant's noise report are implemented and retained throughout the duration of the development. This is consistent with the approach the Planning Inspector took on the Gillows application.

## 7.5 Other Matters

7.5.1 A number of the planning conditions associated with the extant planning consent have been discharged, and therefore these will be required to be re-worded to reflect this position. There is no requirement to introduce condition 1 which related to timescales given the permission has been implemented, nor is there a need to re-introduce a planning condition associated with the provision of a written scheme of archaeological investigation given the archaeological recording has already been undertaken by the applicant and the report provided to the City Council. Other conditions that have been partly discharged will be amended subject to Member approval of this application.

## **8.0 Planning Obligations**

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

## **9.0 Conclusions**

- 9.1 The application proposes some small scale design changes that have evolved as part of the detailed design stage, and from a design and conservation perspective the scheme is considered acceptable. The applicant has sought to amend the requirements of the off-site highway scheme to include a single raised table and the County Council is amenable to the changes proposed. Given the appeal judgment concerning the imposition associated with pre-occupation noise mitigation in the case of 'The Gillows', Officers do not feel in the circumstances that they can impose the planning condition which requires the pre-occupation noise monitoring requirement as it would not meet the relevant tests. Officers recommend to Members that the scheme is supported subject to the conditions listed within the recommendation section.

## **Recommendation**

That Planning Permission **BE GRANTED** subject to the following conditions:

1. Approved Plans (updated to reflect the plans associated with this planning application)
2. Development to be in accordance with the Construction Management Plan
3. Development to be in accordance with the Contaminated Land Assessment
4. Implementation of approved surface water drainage scheme
5. Implementation of approved foul drainage scheme
6. Flood Evacuation Procedure (to be approved and implemented in advance of occupation)
7. Building materials (Updated to reflect this approval with respect to windows)
8. Security Measures to be implemented
9. Hard landscaping to be in accordance with the approved plan
10. Refuse arrangements and cycle storage to be in accordance with the approved plans
11. Off-site highway works in accordance with details associated with this planning permission in advance of occupation
12. Finished Flood levels as per submitted FRA
13. Development in accordance with the submitted specification as contained within the Red Acoustics Report, setting out the noise limits
14. Implementation of the measures contained within the approved noise report
15. Scheme of mechanical ventilation to be implemented in accordance with approved detail
16. Occupation restricted to students.

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

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

## **Background Papers**

None.