

Agenda Item	Committee Date	Application Number
A8	15 October 2018	18/00583/FUL
Application Site	Proposal	
Land For Proposed Bailrigg Business Park Bailrigg Lane Lancaster Lancashire	Re-grading and re-profiling of land to facilitate the retention of spoil within the site excavated in association with the Health Innovation Park	
Name of Applicant	Name of Agent	
BAM Construct UK LTD	Mr Andy Harris	
Decision Target Date	Reason For Delay	
9 August 2018	Overcoming LLFA objections and Committee cycle	
Case Officer	Ms Charlotte Seward	
Departure	No	
Summary of Recommendation	Approval	

1.0 The Site and its Surroundings

- 1.1 The application site is located between the southern periphery of the city and the northern boundaries of Lancaster University just to the south of Bailrigg Lane. The site is allocated under saved policy EC1 as the Bailrigg Business Park. Under the emerging Strategic policies and Land Allocations DPD the site is allocated as an employment site for the Lancaster University Health Innovation Campus.
- 1.2 The site (comprising 11.4 hectares) was originally agricultural land with one building on the site, an electricity sub-station. The site is bounded by the A6 to the west. To the north is Bailrigg Lane which is lined by mature trees protected by a Tree Preservation Order. The southern boundary of the site consists of mature areas of woodland, which are also protected by a Tree Preservation Order, and a pond. This land forms part of the designated Key Urban Landscape. To the east the site is bounded by a wire and post fence. The land is gently undulating, sloping upwards towards the south-east. There are two low ridges running north-to-south which terminate at the valley of a small stream known locally as Ou Beck. The eastern edge of the site is most visible from Bailrigg village. The site is not visually prominent from distant views along the A6 because of the orientation of the road and the existing mature planting. However, the site is clearly visible at close quarters and the rising nature of the landscape emphasises its prominence in short views. The site lies within the Lune Estuary SSSI impact risk zone.

2.0 The Proposal

- 2.1 This application seeks planning permission for the spoil being generated by the works to create the access, spine road and the Innovation Park (related to the 2016 permission) to be retained on site. The spoil material generated (22,000 cubic meters) would be deposited on the wider site within two core reception areas either side of the approved internal road. The topsoil will be stripped and then the excavated material will be spread over the land, the top soil will then be re-instated and re-seeded with grass. The depth of the proposed fill varies from 0m to 2.41m in depth. The proposed distribution of fill broadly relates to existing topography in terms of the natural watershed and retains existing ridge lines.

3.0 Site History

In 2009 (09/00330/DPA) outline planning permission was granted for a Science Park, and full planning permission granted for a new access onto the A6 and the construction of an internal spine road/landscaping. In 2012 (12/00626/RENU) this application was renewed to allow for an increased time frame to allow for the implementation of the permission. In 2016 this permission was varied (16/00117/VCN) to allow for the variation and removal of conditions to remove duplicate requirements and to allow the phased implementation of the permission. Works to implement the 2016 permission have substantially commenced, with the site currently having an appearance of an active construction site.

Application Number	Proposal	Decision
09/00330/DPA	Outline application for a Science Park (approximately 34,000 sqm of B1 use floorspace) and full application for a new access off the A6, construction of an internal spine road and provision of landscaping	Permitted
12/00626/RENU	Renewal of application 09/00330/DPA for the outline application for a science park (approximately 34,000 sqm of B1 use floorspace) and full application for a new access off the A6, construction of an internal spine road and provision of landscaping	Permitted
16/00117/VCN	Renewal of application 09/00330/DPA for the outline application for a science park (approx 34,000 sq m of B1 use floorspace) and full application for a new access off the A6, construction of an internal spine road and provision of landscaping (pursuant to the variation and removal of conditions 3, 4, 5, 6, 7, 8, 9, 11, 12, 15, 16, 17, 18, 19, 21, 22, 23, 24 and 27 on the full planning permission 12/00626/RENU to enable phased implementation and remove duplicated requirements)	Permitted

4.0 Consultation Responses

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

Consultee	Response
Lead Local Flood Authority	The proposed development will be acceptable subject to the inclusion of a condition requiring the development to be in accordance with the submitted FRA.
Tree Protection Officer	No objection subject to conditions including implementation of the Arboricultural Implications Assessment and a scheme for planting to be submitted, agreed and implemented.
County Highways	Appropriate comments should be sought from Lancashire County Council's Flood Risk Management and Asset Management teams.
Greater Manchester Ecology Unit	No objection subject to conditions relating to the following:; water on site to be treated as contaminated until proven otherwise to ensure contaminated waters do not reach watercourse, drains rivers etc; precautionary pre-start surveys for badgers and water voles; implementation of bat mitigation; amendment of habitat creation and management plans to account for the new levels and landforms; implementation of prevention of pollution of back (CEMP). Comment provided that there are no risks to European sites and therefore a Habitats Regulations Assessment is not required.
Natural England	No comment.

5.0 Neighbour Representations

5.1 One letter of representation has been received. This supports the concept of the redistribution of spoil but objects on the basis that, it does not take into account future projects in the masterplan, nor the garden village proposal as any future projects may involve the moving of material again. The

author also objects on the grounds that it does not consider alleviation of current flooding problems on Bailrigg Lane.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework

- Para 118: Effective use of land
- Para 127: Achieving well-designed places
- Para 155, 163, 165: Planning and flood risk
- Para 170: Contribute and enhance natural local environment
- Para 175: Habitats and biodiversity
- Para 180: pollution

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 Saved Policies (adopted July 2008)

- SC1: Sustainable development
- SC5: Achieving quality design

6.4 Lancaster District Local Plan (Saved Policies)

- EC1: Bailrigg Business Park

6.5 Development Management DPD

- DM27: Protection and enhancement of biodiversity
- DM28: Development and landscape impact
- DM29: Protection of trees, hedgerows and woodland
- DM35: Key design principles
- DM38: Development and flood risk
- DM39: Surface water run-off and sustainable drainage

7.0 Comment and Analysis

7.1 The main issues are:

- Principle
- Surface water flood risk
- Landscape impact and trees
- Biodiversity

7.2 Principle

- 7.2.1 This site is currently allocated under the saved policy of the Local Plan (EC1) as a site for employment development, specifically for Business and Light Industrial Use only. Under the emerging Strategic Policies and Land Allocations DPD (SG2) the site is allocated as an employment site for the Lancaster University Health Innovation Campus.
- 7.2.2 The site would have 22,000 cubic metres of material redistributed within its boundaries which would result in change to its topography. The proposal has been justified in the submission on the basis that it would be a cost effective way for the University to deal with the material that is produced as a result of the 2016 permitted scheme (cheaper than paying to dispose of the material elsewhere) and that it would remove the requirement for traffic movements to shift the material off site through Galgate. The submission does not provide much detail in relation to how this may affect the future deliverability of this site for the specified employment uses, other than in the revised Flood Risk Assessment, it states that “the proposed re-grading works does not significantly alter the existing gradients such that future development would be affected; however it will be subject to detailed development and assessment once plans are produced”. Concern has been raised in the public objection that this development would result in more material having to be shifted when development eventually does come forward.
- 7.2.3 Fundamentally, there is no policy which restricts such large scale engineering operations. Other than a potential reduction in HGV movements through Galgate (that has already been considered to be acceptable in the original grant of the 2016 permission) there is no public benefit that would result from the scheme. In relation to the future development of the site it is common sense to identify that the scheme has the potential to result in material being placed on the land that may in the future need to be removed to accommodate the delivery of development on the site to meet its allocated purpose. Notwithstanding this, subject to the proposal being acceptable in relation to its impact on surface water drainage, trees, biodiversity and landscape, there would be no policy grounds for this application to be refused. The following report focuses on the assessment of these impacts.

7.3 Surface water flood risk

- 7.3.1 Policy requires that new development should seek to demonstrate that there is no increase in on-site or off-site surface water run-off rates upon completion and where possible reduce surface water run off rates.
- 7.3.2 This site is subject to existing surface water flood risks ranging from 1:30, 1:100 to 1:1000 risk levels. The proposed development is resulting in the addition of 22,000 cubic meters of new material to the identified reception areas when compared to the 2016 consented scheme. A critical consideration in the acceptability of this proposal is being confident that there would be no increase in surface water flood risk on or off site.
- 7.3.3 The original application was submitted with a Flood Risk Assessment (dated March 2018). This report identified that the proposal would result in change to the direction and speed of overland flow within the site. At the western part of the site, this proposal is identified to increase the speed of flow towards the A6. In the north of the site the proposal would result in the land being re-graded to direct the flow towards the internal spine road to intercept the flow of water towards Ou Beck. In the south of the site surface water run-off will be increased towards the south-east of the site. The report sets out that these changes should not increase the risk of flooding within and outside of the site boundary subject to mitigation measures. These include the provision of swales required from the 2016 permission, the retention of the flood plain around Ou Beck and designing overland exceedance routes and excess storage areas to ensure flows are away from critical buildings and captured in non-critical areas.
- 7.3.4 Following close assessment of the submitted information, concern was raised by the case officer that the FRA had not been informed by new modelling that takes into account the proposed topography. It was therefore questioned how it could be demonstrated that the mitigation originally proposed for the 2016 scheme would be adequate for the proposed landscape changes. In addition it was unclear how the scheme would impact on Ou Beck, or how the proposed increased speeds of overland flows would potentially affect the A6 or Bailrigg Lane.

7.3.5 In addition to this the Lead Local Flood Authority raised objection on the 6 following items summarised below:

1. Evidence required to demonstrate capacity of swales required under 2016 permission would prevent discharge onto the A6;
2. Evidence that the permeability of the site would not be increased by earthworks compaction operations;
3. Evidence that no requirement for interception of water (from steeper land in north) before reaching the spine road;
4. Provide exceedance routes;
5. Demonstrate that the re-profiling does not prejudice the future phases of the development of the site; and
6. Evidence to show flood risk has been considered during construction phase

7.3.6 Additional information was submitted by the applicant in the form of a revised FRA with additional appendices. In relation to the capacity of the swales required under the 2016 permission new modelling has been carried out demonstrating that the size of the proposed swales are adequate for the revised topography of the site. Details of the ground conditions and the method of how the works will be carried out have been provided which describe that ground conditions will remain largely similar. The flood plain area of Ou Beck has been described to provide exceedance storage in extreme storm events, with overland exceedance routes and excess storage areas described as being designed to ensure flows are away from critical buildings and captures in non-critical areas. In relation to future phases the impact remains unclear. The proposal will result in fill being placed on land that is allocated to be developed for employment use, and as such will result in the potential for further earth movements. However, it is unclear how this would affect any development decisions in relation to progression of works on this site. Section 6 of the FRA sets out the provisions for dealing with surface water run off relating to construction.

7.3.7 On the basis of this additional information, the LLFA has removed their objection, advising that the proposed development will be acceptable subject the following condition:

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Rev D, August 18 and the following mitigation measures detailed within the FRA:

1. *The proposed swales along the A6 and spine road are constructed as specified in the FRA section 5.5.1.*
2. *The permeability of the site will not be effected by employing mitigations in section 5.5.5 of the FRA.*
3. *The filter drain to the north of the site near Bailrigg lane is constructed as recommended in section 5.5,3 of the FRA.*
4. *The mitigation measured proposed in section 6.0 of the FRA is implemented to ensure that there no increased flood risk during construction.*
5. *The proposed mitigation in section 5.6 of the revised FRA is implemented.*

The mitigation measures shall be fully implemented prior to any future development and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority in consultation with the lead local flood authority.

It should be noted that the LLFA have not specifically identified in their response how the submitted information has enabled them to withdraw their objection. A request has been made to LLFA, given the technical nature of the matter of surface water drainage as this site, for them to provide some commentary around the removal of the objection to explain the decision made. It is hoped that the LLFA will be able to provide this supporting statement in time to provide a verbal update to Committee.

7.3.8 Following assessment of the conditions proposed by the LLFA the case officer has identified that there are a number of elements that require clarifying in order to enable the imposition of a condition that can, in accordance with paragraph 55 of the NPPF, be precise and enforceable. The case officer is working with the agent to facilitate the provision of this information. A verbal update will be provided at the Committee meeting.

7.3.9 Subject to conditions meeting the tests of the Framework, it is considered that the proposal would not result in an increase off site surface water run-off.

7.4 Landscape impact and trees

7.4.1 Policy requires that development is in scale and keeping with the landscape character of the area. The proposed development would result in a change to the topography of the site resulting in existing elevated areas becoming higher and steeper. No landscaping plan has been provided, though the intention stated in the design and access statement is that once regraded the land would be seeded and would return to grassland. Fundamentally the site will, once the grass is established, will appear as an open field. As such, it is considered that following the short term visual impact of the construction works that the site in the medium to long term will be have the appearance and character which is similar to the existing landscape, albeit in reality it is likely to be developed out in accordance with the approved outline planning permission and future Reserved Matters consents.

7.4.2 There are a number of mature and protected trees within the site. An Arboriculture Report carried out for the 2016 permission, and updated in relation to the new proposals was submitted with the application. The 2016 permission has allowed for the felling of a number of trees within the site which have already been carried out. The retained trees within the site are required under the 2016 permission to be protected during construction. This report concludes that the proposed earthworks would not impact on the retained trees as the levels will be adjusted locally so there are no change of levels close to these protected trees. An updated tree protection plan has been provided. In addition to this, contoured sections of three of the retained trees have been provided to show that the original ground levels will not be altered in relation to these trees. The Tree Protection Officer has considered the original and additional information submitted and has raised no objection subject to conditions relating to the implementation of the Arboricultural Implications Assessment and a scheme for planting to be submitted, agreed and implemented. It can be concluded that the proposed works would not affect the retained trees at the site, and therefore would not result in any visual change to contribution of the trees to the landscape character.

7.4.3 Subject to a conditions requiring the submission and agreement of a landscaping and planting scheme, and the protection of trees, the medium-long term impact on the appearance of the field can be considered acceptable

7.5 Biodiversity

7.5.1 Policy requires that any proposed development demonstrates how the impacts on biodiversity have been minimised and net gains in biodiversity, where possible provided. Development that has the potential to directly or indirectly impact on internationally designated sites has to be adequately assessed under the Conservation of Habitats and Species Regulations.

7.5.2 The application was originally submitted with an Extended Phase 1 Habitat Survey and Protected Species Survey that was carried out in August 2015 in relation to the 2016 permission. This includes a limited additional survey along the A6 carried out in February 2016. Together these surveys included surveys of hedgerows and trees, great crested newts, reptiles, bats, nesting birds, bats, badgers and water voles. The document had not been updated in relation to this proposal for the deposition of spoil on the wider site.

7.5.3 As a result, concern was raised by the case officer as to whether, given the ages of the surveys, the results could still be considered valid, particularly in relation to limitations of the survey set out in the report that states the badger and water vole surveys only remained valid until 28 August 2018 and the bat surveys only remained valid until the 30 March 2017. In addition, concern was raised about the validity of the proposals in relation to the surveys given that it did not take into account the proposed development or propose any specific mitigation in relation to this scheme and did not address potential impact on the European designated site. Furthermore, the proposed development

conflicts with the agreed landscaping enhancement mitigations proposed, and the habitats management and creation plan.

7.5.4 These concerns were forwarded to the agent and Greater Manchester Ecology Unit (GMEU). The agent's ecologist provided a supplementary statement which sets out justification as to why they consider the report remains valid, and provides additional mitigation in relation to bats to ensure that the mitigation accords with the European Protected Species Licence granted in early 2018.

7.5.5 GMEU has confirmed that they consider most of the findings of the ecology survey can be relied on. The exceptions to this are the need to update badger and water vole surveys. A condition of any permission granted would require that precautionary pre-start surveys for these species should be made a conditions of any permission granted. In relation to the European designation site, it was concluded that subject to the precaution identified in the Construction Environmental Management Plan (CEMP) (submitted as part of the 2016 application) there would be no impact on this beck and therefore any downstream designated site. However, this document has not been submitted as part of this application, and therefore to enable it to be conditioned as a requirement of this application, this document has been requested to be provided part of this application. Committee will be verbally updated in relation to this matter. In addition to this GMEU has confirmed that the Landscaping and Habitat Creation and Management Plans agreed as part of the 2016 would need to be updated as this proposal would conflict with the objectives of this plan.

7.5.6 Overall, the proposal can be considered acceptable in relation to habitats and species subject to conditions to require the following:

- Implementation of the mitigation set out in this report
- Implementation of additional mitigation as set out in the 2018 bat licence requirements
- Carrying out of precautionary surveys in relation to badgers and water voles, and
- The implementation of the CEMP and the updates to the landscaping and Habitat Creation Management Plan

7.6 Other matters

The proposed development has implications on details that have been previously approved in relation to the 2016 permission including:

- Agreed Landscaping Plan 53001 P2 agreed under 16/00182/DIS
- Habitat Management and Creation Plan
- Construction Environmental Management Plan
- Remediation Strategy
- The contours will affect the approved cycle route (though it is acknowledged that the route may be adjusted anyway as part of future phases of development)

The applicant/agent has been made aware of these implications and that they will need to resolve them as part of a new discharge of conditions application relating to the 2016 permission.

8.0 Planning Obligations

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

9.0 Conclusions

9.1 The proposed development has public benefit, but has been assessed to not have any adverse impact on surface water drainage on or off-site, on landscape character, trees or biodiversity. On this basis it is considered that there are no grounds for refusing the development. As such, the proposal is recommended for approval.

Recommendation

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

1. Standard time condition

2. Development to accord with listed plans
3. Implementation of the Flood Risk Assessment, and surface water mitigation in relation to:
 - Provision of swales
 - Permeability of ground
 - Provision of filter drains
 - Retention of flood plain of Ou Beck
 - Provision of margins around reception areas to direct run off to soakaway within the site
 - Provision of water retention area and controlled percolation of surface water run off
 - Timing of works
 - Direction of surface water to the spine road to percolate in the middle of the site
 - Use of stone in construction parking and circulation area
 - Direction of overland exceedance routes and excess storage areas
 - Provision of a French Drain
4. Submission and agreement of a Landscaping and Planting Scheme
5. Implementation of Ecological Mitigation, including additional bat mitigation and pre-cautionary pre construction badger and water vole surveys
6. Implementation of Remediation Strategy
7. Implementation of Construction Environmental Management Plan
8. Implementation of Arboriculture Report including Tree Protection Plan

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

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

Background Papers

None.