

Agenda Item	Committee Date	Application Number
A5	12 November 2018	18/00751/FUL
Application Site Land Along The East Bank Of The River Lune Between The A683 Viaduct And Skerton Bridge And Land Along The West Bank Of The River Lune East Off Halton Road/Main Street	Proposal Erection of flood defence walls, security fences, lighting columns and alterations to footpaths	
Name of Applicant Lancaster City Council	Name of Agent Mr Benjamin Noutch	
Decision Target Date 5 October 2018	Reason For Delay Awaiting further surveys and Committee cycle	
Case Officer	Mrs Petra Williams	
Departure	No	
Summary of Recommendation	Approval	

1.0 The Site and its Surroundings

- 1.1 The application site is comprised two elements. The land along the eastern bank is a linear site which runs largely parallel to the River Lune for approximately 2.5km between Skerton Bridge and just short of the Bay Gateway access bridge (A683) on the north-eastern edge of Lancaster. This part of the application site carries an off-road cycle path (National Cycle Network Route 69) with the landward side of the proposed development site being occupied by industrial and commercial buildings comprising Lake Enterprise Park, Lansil Industrial Estate and Riverside Park Industrial Estate. There is also a hotel (Holiday Inn) located close to the northern end of the proposed development route. A single residential property abuts the site adjacent to the cycle path. The cycle path is heavily tree lined which largely restricts views of the River Lune and the adjacent industrial units.
- 1.2 The second element of the scheme relates to a small area on the western side of the river and is close to commercial and residential properties near to the junction of Aldrens Lane, Halton Road and Mainway.
- 1.3 The cycle route runs the whole length of the application site on the eastern bank and is a designated Public Right of Way (PRoW - FP14 and FP15) between the Holiday Inn and a point just north of the Lake Enterprise Park (approximately 450 metres north of Skerton Bridge) where the PRoW exits onto Caton Road. The industrial and commercial buildings between the River Lune and Caton Road are located within an allocated Employment Site as identified by the Local Plan.
- 1.4 Both elements of the scheme are within an area designated as PPG17 Open Spaces - Natural and semi natural green space and parts of the site are identified as a Mineral Safeguarding Area which covers the River Lune. A number of trees within the grounds of Standfast Barracks are covered by a Tree Preservation Order (TPO NO. 431 (2008)). A pipeline centreline (Caton Road/Caltech Distribution) runs along the northern part of the cycle path. The River Lune is designated as a Biological Heritage site. Areas designated as Site of Special Scientific Interest (SSSI), Special Area

of Conservation (SAC), RAMSAR and Special Protection Area (SPA) are located approximately 300 metres downstream. Both elements of the site are within Flood Zones 2 and 3.

1.5 Skerton Bridge at the southern end of the eastern bank is a Scheduled Monument and grade II* listed. Further upstream, the Lune Aqueduct is grade I listed. Also on the eastern bank Standfast Barracks (also known as former wagon works) is grade II listed. Other notable heritage assets are Nos 38 - 42 Parliament Street which are located approximately 60 metres from Skerton Bridge (outside the application site) and these properties are II* listed.

2.0 The Proposal

2.1 The proposed development is part of a flood risk management scheme for the River Lune and spans land predominantly to the eastern bank (2.5km) of the river. The proposed work includes the construction of a concrete wall which will be set back between 10 and 15 metres from the river with foundations along cycle path from Skerton Bridge to the Holiday Inn. The wall is proposed to range from a minimum width of 0.3 metre to a maximum width of 0.7 metre and from a height of 0.5 metre to a maximum height of 2.5 metres. The variation of these measurements relates directly to changes in the local topography. Along the wall's boundary with the industrial estate, wall-mounted security fencing will be installed.

2.2 The scheme includes a smaller section of wall to the western bank (85 metres) at the junction of Aldrens Lane with Halton Road and Mainway. This will tie into an existing natural stone wall on Halton Road and will have an approximate height of 1.4 metres. The wall will extend in a southern direction to tie into higher ground on Mainway.

2.3 The walls will be constructed of concrete with three different finishes being proposed:

- Sections of wall proposed in the visual envelope of Skerton Bridge and The Lune Aqueduct and the section proposed on the western side of the river will be clad with natural stone.
- Sections of wall that will be publicly visible, which are predominantly sections fronting the cycleway, will be finished with patterned concrete form liner.
- The remaining sections will be finished in plain concrete.

2.4 Eight 'up and overs' will be integrated into the design of the wall on the eastern bank in order to maintain inclusive access for the public, including cyclists and those with impaired mobility, to existing pedestrian routes without compromising the effectiveness of the wall as a flood defence. These "up and overs" will facilitate the maintenance of linkages through to the industrial areas and Caton Road.

2.5 Replacement planting is proposed along the eastern bank and will include individual trees, native species hedgerow and deciduous woodland mix as well a grass seeding and bulb planting. An existing grassed area adjacent to the western bank wall will be reseeded where necessary and planted with individual trees and bulbs.

2.6 It is anticipated that the construction would take place over a 15-month period and that during this time an alternative route would be put in place. However, this route would be outside the application boundary and details of this route are not yet finalised.

3.0 Site History

3.1 A request for a screening opinion under the Town and County Planning (EIA) Regulations 2011 (as amended) reference 18/00432/EIR was submitted in April 2018. It was determined that the proposed scheme is not considered to result in significant environmental effects and as such no Environmental Statement is required.

3.2 This proposal constitutes Phase 3 of a five phase development. Flood defences between Carlisle Bridge and Aldcliffe Marsh were constructed following the grant of consent under 04/01255/FUL. A further planning application (05/01056/FUL) was granted in 2007 for a wall as part of a flood alleviation scheme which involved works along St Georges Quay further downstream.

4.0 Consultation Responses

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

Consultee	Response
Environmental Health	No objections subject to a condition regarding hours of construction.
Tree Protection Officer	No objections subject to a condition in relation to a further detailed assessment of the impact of the proposed development on trees that are currently proposed for retention. Replacement planting must achieve a minimal onsite replacement ratio of 1:1, and this will also be subject of a condition. Additional tree planting opportunities must be identified in additional off site locations where possible.
Lead Local Flood Authority	No objections; the LLFA are working in partnership with the Environment Agency on this phase 3 flood defence scheme.
Environment Agency	No objections in principle to the proposed development as submitted.
Electricity North West	No objections but advises that the development is shown to be adjacent to or affect Electricity North West operational land or electricity distribution assets. Comments will be provided to the applicant as advice.
Canal and Rivers Trust (CRT)	No objections - initial comments raised queries regarding how the wall would impact on the canal embankment adjacent to the Lune Aqueduct. A subsequent meeting on site between the applicant and CRT has provided clarification. Revised plans indicate that the flood wall will be set away from the embankment.
Conservation Team	No objections following revised Heritage Statement and subject to conditions regarding materials and methodology for tying flood wall into embankments.
Historic England	No objections - there will be no direct impact upon designated heritage assets.
Lancashire Archaeological Advisory Service	No objections subject to a condition regarding the submission implementation of a programme of archaeological work in accordance with a written scheme of investigation.
Natural England	No objections based on the Habitats Regulations (HRA) and Marine Conservation Zone (MCZ) Assessments submitted and its proposed mitigation measures. Natural England considers that the proposed development will not have significant adverse impacts on designated sites.
National Grid (Cadent Gas)	No objections raised but Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance. Comments will be provided to the applicant as advice.
United Utilities	The information submitted as part of the application has failed to identify the impact the proposal will have on their assets. Recommends a condition to afford appropriate protection of infrastructure that crosses the site.
County Highways	No objections subject to the submission and agreement of a scheme for an alternative cycle route during the construction period and the submission of a construction method statement
Public Rights of Way	Raise concerns the application mentions diverting various parts of the existing cycleway and the applicant needs to take into account that planning permission does not permit the obstruction of existing Public Rights of Way without the appropriate Diversion Order being confirmed. Given that a diversion Order can take a while to process under the appropriate Act the applicant's potential start date of January 2019 and completion February 2020 may be ambitious. There are also concerns that the suggested alternative route during the temporary closure has a number of safety implications in that the route concerned has insufficient width to accommodate cyclists and pedestrians. A preferred option would be to stagger the closure as and when works have been completed so that there is minimal disruption to Rights of Way users and an alternative route would have a lower impact on users over a lesser period of time.

Ramblers Association	Neither objects nor supports the application. Little benefit to the Public Realm is proposed, especially since the Public Rights of Way are not being protected by this scheme.
Lancaster Civic Society	No comments received
Lune River Trust	No comments received
Engineering Team	No comments received
Planning Policy Team	No comments received
RSPB	No comments received
Public Realm Officer	No objections the proposed works will not have a significant impact on the public realm.
Greater Manchester Ecology Unit (GMEU)	No objections the proposal will not have a significant impact on the special interest of the European Protected Sites concerned subject to implementation of the mitigation within the submitted Construction and Environmental Management Plan (CEMP), Utilities Method Statement and Water Framework Directive Assessment. Conditions are required to ensure appropriate ecological mitigation is carried out. Satisfied with the mitigation proposed in respect of protected species.
Campaign to Protect Rural England	Concerns regarding construction and long-term impacts, increase in flood risk and the possibility of light pollution being unnecessarily increased.
Dynamo Cycle Group	Objection - as there is no safe, protected alternative for cyclists and walkers is provided in the current plans. Willing to remove its objection if the plans include a safe, protected route during the construction phase and if there are further details about the eventual replacement path.

5.0 Neighbour Representations

5.1 At the time of writing this report 25 items of objection have been received. A summary of the main reasons for opposition are as follows:

- Opposition to the proposed alternative route.
- Concerns regarding impact on cycling/footway/right of way – including impacts upon leisure and commuting; horse riding; wheelchair access; wellbeing of users; increase in traffic congestion during the works as a consequence of loss of the facility; ‘Up and Overs’ present accessibility issues. A suggestion that the works should be phased to avoid entire length being closed during construction.
- Concerns regarding engineering matters – including flood gates would be a viable alternative; proposal is over-engineered and a costly solution; companies should erect concrete barriers on their own land.
- Flood matters including no impact on flooding from sewers or on groundwater flooding are identified in the Flood Risk Assessment; and new risk of surface water flooding due to wall preventing discharge into river.
- Locational matters, including wall should not be on the river side of the path so users still have the same access and view of the river and riverside land; and the proposal doesn’t offer protection for the premises of John o’Gaunt Rowing Club.
- There is an opportunity to make improvements by adding facilities such as playgrounds, trim trail, pump track or cycle skills area / trail, cycle parking, dog bins, dog exercise area, art installations, improvements to the accessible jetty, climbing holds.

5.2 Five item of support have been received. Although offering support for the scheme these items of correspondence also raise the following questions:

- Will there be an alternative route?
- Support is caveated due to concerns regarding the closure of the public footpath.
- Suggests a phased approach to the closure and adequate provision for a safe cycling route.

5.3 Twelve public comments neither object or support the scheme but make the following points:

- Consideration should be given to the needs of horse riders;

- Clarification sought as to whether the cycle path is to be closed;
- A diversion onto Caton Road is not acceptable;
- Importance for a safe and sufficiently wide alternate route for cyclist to be provided;
- Will the proposal mean that water will back up and that Halton flooding will be made worse?

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework

Paragraphs 7 to 10 Achieving sustainable development

Paragraph 11 to 14 The Presumption in favour of sustainable development

Paragraphs 47 to 50 – Determining applications

Paragraph 80 –Building a strong and competitive economy

Paragraphs 91, 92, 94, 96 and 98 – Promoting healthy and safe communities

Paragraphs 102 to 103, 108 to 111 – Promoting sustainable transport

Paragraphs 124, 127, 129, 130 - Achieving well-designed places

Paragraphs 148, 150 – Planning for climate change and flood risk

Paragraphs 170 and 175 - Conserving the natural environment/habitats and biodiversity

Paragraphs 189 to 192, 196, 197 and 200 – 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 enables progress to be made on the preparation of a Local Plan for the Lancaster District. The DPDs were published on the 9 February for an 8 week consultation in preparation for submission to the Planning Inspectorate for independent Examination. If an Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council, potentially in late 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 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 Core Strategy Policies

SC1 –Sustainable Development

SC7 – Development and the Risk of Flooding

SC8 – Recreation and Open Space

ER2 – Regeneration Priority Area (Caton Road)

6.4 Development Management DPD Policies

DM3 - Public Realm and Civic Space

DM20 – Enhancing Accessibility and Transport Linkages

DM21 – Walking and Cycling

DM25 - Green Infrastructure

DM26 – Open Space, Sports and Recreational Facilities

DM27 – The Protection and Enhancement of Biodiversity
DM28 - Development and Landscape Impact
DM29 - Protection of Trees, Hedgerows and Woodland
DM31 – Development Affecting Conservation Areas
DM32 – The Setting of Designated Heritage Assets
DM33 – Development Affecting Non-Designated Heritage Assets or their Settings
DM35 – Key Design Principles
DM38 – Development and Flood Risk
DM40 - Protecting Water Resources and Infrastructure

6.5 Lancaster District Local Plan Saved Policies

EC5 - Improving the District's Existing Employment Areas

6.6 Lancaster District Local Plan 2011 – 2031 - Infrastructure Delivery Schedule

6.7 Other Material Considerations

Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended states that the local planning authority shall have regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

7.0 Comment and Analysis

The key material considerations arising from this proposal are:

- Principle of development and background to submission;
- Design and appearance;
- Flood risk and surface water drainage;
- Impacts on trees;
- Ecological impacts;
- Impact on heritage assets;
- Highways and access.

7.1 Principle of development and background to submission

7.1.1 There is a long-established employment area along the eastern side of the cycle path that benefits from strong transport links to Lancaster City Centre, the M6 and the Port of Heysham. Serious flooding in December 2015 affected a number of parts of the district, including the immediate area around Caton Road. There was also disruption caused due to flooding at the junction of Halton Road, Mainway and Aldrens Lane during this flood event. The submission explains that while activities have gradually resumed, some businesses have moved away and those that remained have reported difficulties in securing ongoing flood insurance.

7.1.2 At present the area is at risk from a 1 in 20-year flood event. This risk threatens to deter existing businesses and dissuade new business from establishing in the locality. In order to ensure that Caton Road remains a key employment centre, there is a need to provide effective flood protection. Flood modelling demonstrates that the proposed flood defence wall would reduce the flood risk across the area from the current 1 in 20-year event to a 1 in 100-year event. It is considered that the proposed scheme accords with local planning policies SC7 and ER2 of the Core Strategy as well as the Lancaster City Council Infrastructure Delivery Schedule (2018).

7.1.3 The application has been brought forward by the City Council working in conjunction with the Environment Agency to design a scheme for flood protection. There is clear, strong justification for the proposals on the basis of protecting a designated employment site on Caton Road as well housing and commercial units on the western bank of the river. The principle of the proposal is therefore deemed to be acceptable.

7.2 Design and appearance

7.2.1 New developments are expected to contribute to improvements and enhancements of the public realm in accordance with policy DM3. Policy DM35 highlights the importance of achieving a high

standard of design in order to create an attractive, welcoming entrance at gateway locations. These provisions are also reflected within section 12 of the National Planning Policy Framework which seeks to achieve well designed places.

- 7.2.2 The wall alignment will vary along the route and this is dictated in part due to constraints of existing services and structures. Consequently some stretches of the wall will be located on the river-side of the path. There is an existing 280 metre length of flood wall within the boundary of Standfast Barracks and the new wall will tie into this at either end. In some parts of the development area the wall will be set close to the boundary of the industrial sites and therefore will be offered a degree of screening by trees which will be retained. This is considered particularly important at the southern end of the site where an attractive avenue of poplar trees exist.
- 7.2.3 The proposed concrete flood wall will have three different finishes depending on location. In order to harmonise with the visual character of Skerton Bridge and the Lune Aqueduct, the sections of wall proposed in land contributing to their setting will be faced on both sides with natural stone cladding. Where visible from publicly accessible areas, such as from the River Lune Millennium Park, the wall will be finished with patterned concrete form liner. The remaining sections of wall will be finished with plain concrete. Natural stone copings are proposed on all sections of proposed wall.
- 7.2.4 Following the erection of the wall the cycle way/footpath will be reinstated where necessary. Surfacing will be black bitmac with a pre cast concrete pin kerb edge to match the existing. Timber post and rail fencing will be provided at the up and over access points.
- 7.2.5 It is considered that the proposed use of materials, which are consistent with the local vernacular in this area, will lessen the 'hardening' effect on the riverside character resulting from the introduction of the new wall. The loss of riverside boundary trees is to be kept to a minimum, although a considerable number of trees are affected (see 7.4). The visual appearance will be softened further with the introduction of new planting. Overall the scheme is seen to accord with the requirements of policies DM3 and DM35 in terms of design and appearance.

7.3 Flood Risk and Surface Water Drainage

- 7.3.1 Both parts of the development area lie within Flood Risk Zone 2 and 3. As required a Flood Risk Briefing Note (FRBN) has been submitted within this application. The Environment Agency Flood Map indicates that the site is located within Flood Zone 3: High Probability. Fluvial flood risk in the city derives from fluvial and tidal flood risk from the River Lune and it is also potentially at risk of being flooded by a storm surge in Morecambe Bay. The proposed works are classed as water compatible, comprising essential flood control infrastructure, and the primary focus of this proposal is to minimise flood risk to the businesses and residential properties.
- 7.3.2 The submitted Flood Risk Briefing Note (FRBN) refers to modelling of the impact of the wall which indicates an increase in water level at the 1% Annual Exceedance Probability (AEP) design flood event upstream of the scheme. Although there is an increase in water level of approximately 20mm this does not increase risk to others as the increase in water levels will be contained within bank and therefore would not result in additional flood risk areas.
- 7.3.4 The scheme will offer protection to properties currently at risk of fluvial flooding and the proposed works will not increase the impermeable surface and it is therefore considered that the impact on runoff will be negligible. It is understood that the new wall will include 'flow paths' to allow surface water to discharge by gravity to the river and the modelling referred to in the FRBN suggests that there will be no impact on surface water outfall or change in surface water flood risk associated with the development.

7.4 Impact on Trees

- 7.4.1 One of the key issues is the balance that has to be sought between the need to protect businesses, people and property from flooding, and the impact the works will have on the significant number of trees, particularly along the eastern route. A Tree Protection Plan (TTP) has been submitted as part of the scheme which identifies trees established along the route of the proposed wall which are directly implicated by the development. While the structures of the existing cycle path will act as a constraint to smaller less well established trees, larger mature trees may be rooting beneath the

path. It is proposed that much of the construction will be carried out from the landward side of the wall and the applicant has liaised with land and business owners in this regard.

- 7.4.2 The (TPP) identifies 687 trees to be felled to accommodate construction. It is the view of the Tree Officer that the actual number of trees which may be implicated by the proposal will be in excess of 750. Clearly the Tree Protection Plans (TPPs) show the wall to be erected in close proximity to a range of trees proposed for retention. Currently the Tree Protection Officer is of the view that it has not been satisfactorily demonstrated within the TPPs that the trees identified for retention and protection can be adequately protected in compliance with BS5837 (2012). It is the recommendation of the Tree Officer the applicant's appointed arboriculturist to should be asked to review the impact on trees on site prior to commencement of development. It is also accepted by the Tree Officer that until trees in association with the development can be marked up on site, it would be difficult to know with any certainty exactly how many trees would in fact require removal. However, because the existing tree planting is very dense, the Tree Officer is confident that the final number for trees lost to facilitate the scheme would be acceptable and that that the existing screening and greening benefits can be retained. It is nevertheless critical to understand the true impact of the proposal in relation to tree losses in order that adequate mitigation measures can be identified. The Tree Officer therefore raises no objections to the proposal subject to conditions requiring a revised Arboricultural Method Statement (AMS) which identifies and marks up all tree proposed for removals. The revised AMS would in turn inform a replacement planting scheme and an updated Arboricultural Implications Assessment.
- 7.4.3 It is acknowledged that a relatively large volume of tree losses have been proposed in order to accommodate the development. However, as highlighted above, due to the dense nature of existing planting by and large there are "other" trees which will be retained beyond those that are to be removed and it is considered that this will, in most areas, avoid the development of "gaps" in the existing tree cover.
- 7.4.4 Policy DM29 sets out that the Council will seek to retain existing trees within development proposals but that where this is not possible or feasible to achieve then consideration will be given as to whether suitable mitigation measures would compensate for the losses sustained. Where the loss is adequately justified the policy sets out that the local planning authority would normally seek replacement tree planting in accordance with the Council's Tree Policy document (adopted 2010) which sets out that that where trees are to be removed in order to accommodate an approved development, replacement planting is generally expected at a ratio of 3:1. However, in this instance this is not considered feasible due to the narrow constraints of the site. As such the submission proposes a replacement of all trees to be lost during the construction phase on a ratio of at least 1:1 within the site, making up the numbers to 3:1 in external off-site locations. On balance this approach is considered acceptable in this instance given the significant benefits that the scheme would bring to the adjacent employment site.
- 7.4.5 It is clear that the scheme will result in significant tree loss and this is acknowledged as of a weakness of the scheme. Subject to a condition for replacement planting (which will be expected to achieve a minimal on site replacement ratio of 1:1), in addition to a scheme for tree planting in additional off site locations, on balance the scheme is considered to be acceptable in terms of impacts on trees.
- 7.5 Ecological impacts
- 7.5.1 The site is located partly within and adjacent to the River Lune Biological Heritage Site (BHS) which is a non-statutory designated site for nature conservation and the application is supported by an ecology appraisal of the site. The habitats present within site comprise semi-natural and plantation broadleaved woodland, scrub, grassland, inundation habitat and the River Lune. The habitats provide opportunities for commuting and foraging bats, breeding birds, otter and common species of reptile. Several mature trees located along or adjacent to the cycle/footpath provide opportunities for roosting bats and nesting birds. As highlighted above, the scheme involves the loss of a significant number of trees and there are also potential construction impacts to bats, birds, otter badger, and common species of reptile and fish through increased disturbance, increased lighting / noise and loss of habitat.
- 7.5.2 Policy DM27 seeks to ensure that where adverse effects are unavoidable, development proposals should ensure that such effects are minimised and provide appropriate mitigation and compensation

measures. Section 15 of the NPPF also seeks to ensure that any impacts on habitats and biodiversity are adequately mitigated.

- 7.5.3 The submission includes an Ecological Impact Assessment and ecological impacts have been exhaustively considered by Natural England and the Greater Manchester Ecology Unit (GMEU) who are satisfied with the proposed mitigation measures. GMEU have carried out a Habitats Regulations Assessment and an Appropriate Assessment in respect of the proposal. A Water Framework Assessment has also been submitted and considered by GMEU who are satisfied that there will be no negative impacts on the ecological potential of the River Lune. There will inevitably be a period of disruption but provided the good working practices set out in the Construction and Environmental Management Plan (CEMP) are followed, it is considered that there would be no likely significant effects on the adjacent Biological Heritage Site or the nationally designated sites which lay downstream of the proposal site. Natural England has advised that due to the proposed mitigation they have no concerns about a significant impact on the designated site features.
- 7.5.4 In terms of protected species, bats and otters have been identified as being present in relation to the development. A number of bat roosts were located during the extensive surveys which have been undertaken. However, none will be directly impacted upon by the development. Two were assessed as having the potential to be disturbed indirectly during construction as a result of noise/vibration. However, the GMEU consultee is satisfied that the potential impacts could be mitigated through a method statement which will be conditioned. It is also worth noting that although there are existing bat boxes within the development site, none were occupied during the surveys but precautionary measures recommended prior to development. No significant issues were identified regarding commuting and foraging habitat. The value of the habitat was confirmed for more common bat species, but the development impact through temporary loss of trees assessed as negligible. The footpath and buildings located within the industrial estate are well lit and subject to regular disturbance via noise and vibration from vehicles and pedestrians. It is considered that operational phase of the development would therefore not increase disturbance levels significantly above the current baseline. Potential disturbance through night working will not occur, with works ceasing half an hour prior to dusk and starting at the earliest half an hour after dawn. No night working will be conditioned.
- 7.5.5 The submitted Ecological Impact Assessment sets out that significant levels of otter activity was recorded along the Lune including several otter holts. The GMEU consultee is satisfied that none are at risk of direct impacts but the Ecological Impact Assessment concludes that at least two of these holts are close enough to be at risk of disturbance and therefore a license is required from Natural England for the works to proceed.
- 7.5.6 Consequently the local planning authority must consider the three derogation tests that would be applied when determining whether a licence can be issued must be considered. These are:
1. The proposed development must meet a purpose of “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment” Regulation 53(2)(e).
 2. The competent authority must be satisfied “that there is no satisfactory alternative” Regulation 53(9)(a), and:
 3. “that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range” Regulation 53(9)(b).

In terms of overriding public interest, the proposal will result in the protection of a large number of businesses from the threat of flooding.

The second test relates to there being no satisfactory alternatives. In the guidance it sets out that there are always going to be alternatives to a proposal and, in terms of licensing decisions, it is for Natural England to determine that a reasonable level of effort has been expended in the search for alternative means of achieving the development whilst minimising the impact on the Protected Species. In this case the development is required in order to protect the adjacent land uses from flooding from the nearby river. As such, it is not considered that there are satisfactory alternatives.

The third test sets out that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. Mitigation measures will include the creation of three artificial holts within proximity to the existing

holts but outside the zone of influence of the construction works. The works to facilitate the development will at its closest be around 10 metres from a holt, which is not regarded as breeding site. GMEU have pointed out that given the otter will have numerous holts over a stretch of 10's of miles they would either ignore the noise and disturbance or move on to another resting place. It is considered that the proposed mitigation is likely to address the requirements of the third test and GMEU are satisfied in this regard.

- 7.5.7 The Ecological Impact Assessment confirmed that nesting birds were present during the survey period within the development site but no protected species were identified. As such clearance should ideally occur outside the bird nesting season. It is therefore considered reasonable to require a method statement for vegetation clearance during the bird nesting season rather than rely solely the standard bird nesting condition.
- 7.5.8 Mitigation for ecology as set out in the submitted updated Ecological Impact Assessment suggests the replacement of all semi-mature and mature trees to be lost during the construction phase on a ratio of at least 1:1 within the development area with the provision of additional trees off-site (in external locations) increasing the planting ratio to 3 to 1. As set within section 7.4 of this report, overall tree replacement on site is proposed on a 1:1 ratio and therefore the recommendations of the ecology mitigation can be incorporated into this. GMEU have confirmed that this is satisfactory providing native species are utilised. GMEU require a number of details to be conditioned through the submission of a Landscape and Environmental Management Plan.
- 7.5.9 The Ecological Impact Assessment sets out construction mitigation and compensation measures in addition to the submitted Construction and Environmental Management Plan and these will be conditioned to the satisfaction of GMEU. As such it is considered that the scheme will accord with the requirements of policy DM27 as well as 170 and 175 of the NPPF.

7.6 Impact on heritage assets

- 7.6.1 The majority of the proposal relates to the eastern bank of the River Lune, taking in the highly significant scheduled monument and Grade II* listed Skerton Bridge and the Grade I listed Lune Aqueduct. The development area also falls within close proximity of, and the potential to affect the settings of, the grade II listed Standfast Barracks (former Wagon Works) and the grade II* listed 38-42 Parliament Street, and within the setting of the Lancaster Conservation Area. In addition to these designated heritage assets, there are a number of non-designated heritage assets affected by the proposal, namely the former corn mill at Skerton (affected by the shorter stretch of flood defence proposed on the western bank), 1-15 Halton Road, 163 Main Street, the boat house, Lancaster Canal and the Midland (Little North Western Railway).
- 7.6.2 Queries raised by the Senior Conservation Officer (SCO) were satisfied through the submission of further details regarding: how the wall will intersect with the earthwork embankments on either side of the Aqueduct; together with paths and up-and-overs (Nos. 6-8); as well as details of how the wall will tie into the embankment near Skerton Bridge and any earthworks. As such the SCO is now of the view that these two important listed structure will not be impacted unduly by the scheme.
- 7.6.3 Sections of wall proposed in the visual envelope of Skerton Bridge and The Lune Aqueduct and the section proposed on the western side of the river will be clad with natural stone. Subject to the submission and agreement of materials through appropriate conditions it is considered that heritage impacts will be minimised.
- 7.6.4 It is considered that harm resulting from the scheme will be less than substantial but that this harm is outweighed by the public benefits of providing effective flood protection to a large number of businesses, as well as offering increased flood protection to the historic built environment along the Lune and the north of the centre. As such the scheme accords with the provisions of polices DM32 and DM33 as well as national requirements outlined within section 16 of the NPPF.

7.7 Highways and access

- 7.7.1 During the site visit by the Case Officer it was clear that the cycle/footpath along the eastern bank is extremely well used. A temporary diversion will be required for the cycleway and Public Rights of Way during the construction period which is anticipated to be 15 months. The County Highways consultee has raised a number of points regarding the provision of an alternative route during the

construction period. These points have also been raised within the majority of public comments and the suggestion of a phased construction period has been put forward. This suggestion was also put forward by the Public Rights of Way Officer in order to minimise disruption to Rights of Way users and result in a lower impact on users over a lesser period of time. Although this option has been considered by the applicant it is anticipated that this approach would actually result in the construction period be significantly increased and the costs would be raised considerably.

- 7.7.2 The current cycle-footpath is clearly a well-established and popular facility, and its loss, even for a temporary period of time, is not ideal and is not treated lightly in the planning balance. However in reaching the recommendation of approval, as this report does, it is dependent upon an alternative temporary route being provided during the construction period. The precise location of the alternative route would be imposed as a planning condition, which would require satisfactory details being discharged by the local planning authority, in consultation with County Highways. It is understood that the applicant has held a number of public events where possible routes have been on display. However, it is reiterated that final options are still being explored by the applicant in this regard and are likely to ultimately result in some off-site highway improvements which will remain beyond the construction period and once the cycle path has re-opened and will therefore provide a long term benefit.
- 7.7.3 County Highways has requested a condition regarding a scheme for the conversion of a grass verge (adjacent McDonalds/Holiday Inn) into a hard surfaced 2m wide length of pedestrian footway. This is directly related to one of the options for an alternative route being considered by the applicant but as highlighted above these plans have not yet been finalised and therefore it is not reasonable to include such a condition.
- 7.7.4 A number of public comments refer to the up and overs as presenting accessibility issues. However they will in fact provide inclusive access for all people including those with disabilities (similar in principle to those installed on Marine Road, Morecambe)
- 7.7.5 The works will require the applicant to obtain an appropriate Diversion Order but this is dealt with by separate legislation. Subject to the inclusion of a condition for the submission of a Construction Management Method Statement and the provision of an alternative route, the proposal is considered to be acceptable from a highways and access perspective.

8.0 Planning Obligations

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

9.0 Conclusions

- 9.1 It is considered that submission has addressed the key issues arising from the proposal particularly in terms of trees and ecological. While clarity is sought regarding the exact number of trees implicated by the development, the Tree Officer is satisfied with the proposed replacement ratio. It is considered that the scheme will provide appropriate ecological mitigation and will not impact unduly on designated heritage assets. While it is accepted that there will be disruption to accessibility during the construction period, this must be balanced against the significant benefits that would be secured in the long term, particularly to an important employment area for the district. It is considered that on balance, approval should be given to the proposed flood defence measures which are put forward within this submission.

Recommendation

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

1. Standard timescales
2. Approved plans
3. Implementation of a programme of archaeological work in accordance with a written scheme of investigation
4. Scheme for alternative cycle route to be provided during the construction period
5. Construction and traffic management method statement
6. Construction and environmental method statement
7. Ecological mitigation measures

8. Revised AMS - A further detailed assessment of the impact of the proposed development on trees that are currently proposed for retention will be required prior to commencement of the development.
9. Revised Arboricultural impact assessment
10. Scheme for replacement planting and landscaping on-site informed by revised AMS
11. Scheme for off-site tree planting
12. Details of all materials
13. Full details of up-and-overs
14. Any deviation from the proposed localised earthworks to be agreed by LPA
15. Methodology for tying flood wall into embankments supporting Skerton Bridge and Lune Aqueduct
16. Location and details of new refuse bins and lighting
17. Details of security fencing
18. Landscape and environmental management plan
19. Method statement detailing control and/or avoidance of invasive species
20. Hours of construction Mon to Fri 0800-1800 and Sat 0800-1400 (no night time working)

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

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

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 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