

Agenda Item	Committee Date	Application Number
A8	14 October 2019	19/00962/RCN

Application Site	Proposal
Land Adjacent To Bulk Road Lancaster Lancashire	Erection of eight buildings up to eleven storeys in height to create student accommodation comprising 125 studios (C3), 50 cluster flats (C3/sui generis), 19 shared townhouses (sui generis), with ancillary communal facilities, study library (D1), gymnasium (D2), new vehicular and pedestrian accesses, car parking, servicing bays, public realm and landscaping (pursuant to the removal of condition 20 on planning permission 18/01363/VCN in relation to the implementation of sustainable energy measures and amendment to condition 25 in regard to the approved foul drainage proposal)

Name of Applicant	Name of Agent
Eric Wright Construction	Mr Ed Flood

Decision Target Date	Reason For Delay
7 November 2019	

Case Officer	Mr Mark Potts
Departure	No
Summary of Recommendation	Approval (assuming no objections from United Utilities)

(i) **Procedural Note**

The application would normally be determined under delegated powers. However, Ward Councillor Tim Hamilton-Cox has requested that the application be referred to the Planning Regulatory Committee for the reason that new developments should be ensuring that they maximise opportunities for action on the climate change emergency.

**1.0 The Site and its Surroundings**

- 1.1 The development site is located to the north of Lancaster city centre located between Back Caton Road and Bulk Road, and the site area is in the region of 0.9 hectares. Planning consent was granted in January 2017 for a new student village and amended in January 2019 under application 18/00820/FUL. Phase 1 was modified under application 18/01363/VCN in June 2019. The site was previously scrubland; formally accommodating the K-Shoes factory and a vehicle dismantler. To the west of the site lies Back Caton Road with industrial development beyond this in the form of the Dana car wash, carpet shop and laundry cleaning business, together with Kingsway Retail Park. To the far north of the site lies residential properties and beyond this is the former bus depot apartment block (eight storeys in height), and properties on Bulk Road and Gladstone Terrace are located to the west of the proposal. To the south lies Bulk Road beyond which is the former Crown Inn on St Leonards Gate. Adjacent to the former Crown Inn is St Leonards Court (retirement apartments), Britten Hall and a computer shop. Parliament Street Retail Park is located to the south. Phase 1 is now fully complete barring associated landscaping and off-site highway improvements works.

- 1.2 There are no Listed Buildings or Scheduled Ancient Monuments located within the development site, and the development does not fall within the Lancaster Conservation Area. The Grade II\* Listed 38-42 Parliament Street are located 60 metres to the west of the proposal, and Skerton Bridge which is Grade II\* Listed and a Scheduled Ancient Monument is located 100 metres to the west of the proposal. The nearest Grade II Listed building is the Crown Inn on St Leonards Gate (85m to the south of the site). The Lancaster Conservation Area is located 130m to the south of the proposal and Gladstone Terrace, Ridge Street, Green Street, Hinde Street and Albion Street are all locally designated heritage assets.

## 2.0 The Proposal

- 2.1 This planning application is made in two parts; first is the removal of planning condition 20 (sustainable energy measures):

*20) A scheme of sustainable energy measures for each building shall be submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented in full prior to the occupation of each building and shall be retained at all times thereafter.*

*Reason: To ensure sustainable energy is provided for within the development proposals.*

- 2.2 The second element of the application is to amend the approved foul water drainage scheme agreed under application 18/01363/VCN. The condition is noted below:

*25) The foul water drainage scheme for Phases 1 and 2 shall be constructed in accordance with the following approved plans:*

- A095182-WYG-501-C\_P03-Drainage Strategy
- A095182-WYG-502-C\_P03-Drainage Strategy
- Lawson's Quay Suds O and M Document A
- SHE-0106-6500-1900-6500\_Hydraulic\_Characteristics
- A095182-WYG-XX-CAL-C-5000-P03\_Microdrainage Calculations

*The approved scheme shall be completed in full prior to the development being first occupied or brought into use, and maintained and retained in accordance with the approved scheme at all times thereafter.*

*Reason: To ensure the provision of a satisfactory means of foul water disposal.*

## 3.0 Site History

- 3.1 The most relevant site history is noted below:

Application Number	Proposal	Decision
<b>18/01363/VCN</b>	Erection of eight buildings up to eleven storeys in height to create student accommodation comprising 125 studios (C3), 50 cluster flats (C3/sui generis), 19 shared townhouses (sui generis), with ancillary communal facilities, study library (D1), gymnasium (D2), new vehicular and pedestrian accesses, car parking, servicing bays, public realm and landscaping (Pursuant to the variation of condition 7 on planning permission 17/01413/VCN to allow for an amended offsite highway scheme)	Approved
<b>18/00820/FUL</b>	Erection of four buildings up to six storeys in height to create student accommodation comprising fourteen two bedroom apartments (C3), 19 shared townhouses (sui generis), with ancillary communal facilities, new vehicular and pedestrian accesses, car parking, servicing bays, retaining walls and structures, public realm and landscaping	Approved
<b>17/01413VCN</b>	Erection of eight buildings up to eleven storeys in height to create student accommodation comprising 125 studios (C3), 50 cluster flats (C3/sui generis), 19 shared townhouses (sui generis), with ancillary communal facilities, study library (D1), gymnasium (D2), new	Approved

	vehicular and pedestrian accesses, car parking, servicing bays, public realm and landscaping (Pursuant to the variation of condition 2 on planning permission 16/01084/FUL to amend the approved plans relating to the fenestration of Blocks A, C1 and C2; and Block B from a pitched to flat roof, and condition 4 with respect to modification to the pedestrian route across the site and amendment to the phase 1 vehicular and pedestrian access)	
<b>16/01084/FUL</b>	Erection of eight buildings up to eleven storeys in height to create student accommodation comprising 125 studios (C3), 50 cluster flats (C3/sui generis), 19 shared townhouses (sui generis), with ancillary communal facilities, study library (D1), gymnasium (D2), new vehicular and pedestrian accesses, car parking, servicing bays, public realm and landscaping.	Approved
<b>15/01622/PRETWO</b>	Erection of a student village	Advice Provided

#### 4.0 **Consultation Responses**

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

Consultee	Response
<b>Fire Safety Officer</b>	No objections
<b>United Utilities</b>	No observations received within the statutory timescales

#### 5.0 **Neighbour Representations**

5.1 Ward Councillor Tim Hamilton Cox has objected to the proposal, as new development should be maximising opportunities for action on the climate change emergency.

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

##### 6.1 **National Planning Policy Framework (NPPF)**

Section 2 – Delivering sustainable development  
Section 4 – Decision Making  
Section 14 – Meeting the challenge of climate change, flooding and coastal change

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

On 15 May 2018, and in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), Lancaster City Council submitted the following documents to the Secretary of State (Planning Inspectorate) for examination:

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

The Examination Hearing Sessions took place between the 9 April 2019 and the 1 May 2019. The Council has published the proposed Main Modifications to the Local Plan. An eight-week consultation into the modifications expires on 7 October 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.

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.

Given the current stage of both DPDs, it is considered that some weight can be attributed to the policies contained therein subject to the extent to which there are unresolved objections to the relevant policies and their consistency with the National Planning Policy Framework.

### 6.3 Lancaster Local Plan 2008

H3 – Housing Opportunity Site

### 6.4 Development Management Development Plan Document (DM DPD)

DM35 – Key Design Principles

DM36 – Sustainable Design

DM39 – Sustainable Drainage

## 7.0 Comment and Analysis

- 7.1 Planning consent was granted in January 2017 for a new student village (16/01084/FUL). Phase 1 of the development is now fully complete, and was opened for student intake in September 2019. The applicant is seeking to remove the requirement for the sustainable energy measures to be implemented which was imposed by planning condition, and this is noted below;

*'A scheme of sustainable energy measures for each building shall be submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented in full prior to the occupation of each building and shall be retained at all times thereafter'.*

*Reason: To ensure sustainable energy is provided for within the development proposals.*

- 7.2 The City Council declared a Climate Change Emergency in January 2019, and one such commitment was to introduce climate change impact assessments and a commitment that the City Council can become net zero carbon by 2030. The planning condition imposed predates the City Council's Climate Change Emergency by two years. The rationale for the condition was that the planning system should support the transition to a low carbon future in a changing climate, and support the use of renewable and low carbon energy in new developments. Given the development as a whole (Phases I and II) was large scale, it was seen as appropriate to include the condition.

- 7.3 Policy DM36 of the Development Management DPD is the main determining policy in consideration of the application to remove condition 20 of permission 18/01363/VCN and is contained below:

*'In delivering sustainable development the council will encourage development to deliver high standards of sustainable design and construction through consideration of:*

- I. Measures to reduce energy consumption and carbon dioxide emissions, and water consumption;*
- II. Opportunities for energy supply from on-site, decentralised, renewable or low carbon energy systems;*
- III. Opportunities to contribute to local and community-led energy initiatives;*
- IV. Account of landform, layout, building orientation, massing and landscaping to minimise energy and water consumption; and*
- V. The reuse of existing resources (including the conversion of existing buildings) where this would be 'fit for purpose'.*

*Applicants are encouraged to implement nationally described standards (Code for Sustainable Homes, BREEAM, Passivhaus) to achieve sustainable design'.*

- 7.4 It is important to note that the policy is worded in a positive way to encourage developers to implement sustainable design measures, as opposed to insist on them. Similar wording is contained within the emerging policy under DM30 of the Development Management DPD (submission version). At the time of the submission in 2016, a Combined Heat and Power Plant (CHP) was suggested within Block A (The largest structure on the site), and also Photovoltaic panels on the roof systems associated with Blocks B and C. This was noted within the report to Planning Committee in January 2017 (16/01084/FUL):

*'Critical to the planning process is ensuring that new developments use energy efficient design and orientation, energy efficiency and if appropriate renewable energy measures installed. The applicants are proposing a Combined Heat and Power Plant which would be sited within the plant room within Block A. Photovoltaic solar panels are also suggested within the applicant's submission however no details have been provided, and therefore a condition should be imposed requiring this detail to be submitted'.*

7.5 The condition imposed did not request specific technologies be adopted, nor meet a current standard such as BREEAM or Passivhaus. The overall intention was the delivery of a development that sought to reduce energy consumption, CO<sub>2</sub> emissions and limit water consumption, and where possible employ opportunities for on-site renewable energy supply or via low carbon energy.

7.6 With this in mind, the applicant has targeted Building Regulations Part L 2013 compliance via passive designs and energy efficiency measures alone (i.e. without any Low and Zero Carbon (LZC) technologies). The measures that have been implemented include:

- Suitable glazing ratio and glass g-value to balance heat losses, heat gains and daylight ingress;
- Improvement in fabric insulation levels over the Building Regulations Part L (2013) requirements of up to 28%;
- Improvement in fabric air permeability over the Building Regulations Part L (2013) requirements by 70%;
- Solar shading; and
- Efficient electric lighting.

7.7 The demand for space heating can be significant for student accommodation, so this has been reduced significantly through the provision of an effective thermal envelope by reducing the thermal transmittance of the building and reduce space heating requirements.

Element	U Value (W/m <sup>2</sup> .K)		Betterment
	Part L2 (2013) Requirement	Proposed Development	
<b>Roof</b>	0.25	0.15	<b>40%</b>
<b>External Wall</b>	0.35	0.16	<b>54%</b>
<b>Floor</b>	0.25	0.15	<b>40%</b>
<b>Window</b>	2.20	1.50	<b>31%</b>

7.8 The applicant's submission contains conflicting evidence regarding the CHP plant within Block A, and clarification has been sought on this. Combined Heat and Power (CHP) is a highly efficient process that captures and utilises the heat that is a by-product of the electricity generation process. By generating heat and power simultaneously, CHP can reduce carbon emissions by up to 30% compared to the separate means of conventional generation via a boiler and power station.

7.9 Officers are disappointed that such an application is made literally at the end of the build process and this has been relayed to the applicant. However, planning applications have to be determined in accordance with the policies of the Development Plan, with the key policy being DM36 of the Development Management DPD. The policy backdrop is one which encourages, as opposed to insists, and whilst the submission deviates from the original approach back in 2017, a fabric first approach has been taken. Therefore on balance, whilst the condition cannot be removed, the submitted detail would be sufficient to discharge the planning condition.

#### Foul Water Arrangements

7.10 With respect to the changes to the foul water management, this was amended following further site design. The original approved proposal was to lay a new foul water drain along Caton Road but given the revocation of the road closure in 2017 by Lancashire County Council an alternative scheme that provided for the foul water drainage to cross through the site was implemented. Observations are still awaited from United Utilities on the acceptability of the scheme, although as the scheme has been

implemented, and had the agreement of United Utilities, it is assumed that the change is acceptable. Any observations from United Utilities will be provided verbally to Councillors.

### Other Matters

- 7.11 To the annoyance and frustration of Officers there have been a number of breaches of planning control associated with this site over the course of the last 24 months. Whilst Officers have worked proactively (as endorsed by the NPPF), the capacity of the Local Planning Authority to tolerate further delays is at its limit. This is even more frustrating given the same applicant has worked with the Local Authority since 2016 in developing this scheme. Enforcement action is discretionary, and Local Planning Authorities should act proportionally in responding to breaches of planning control. Despite the applicant working with County Highways for almost 18 months on the off-site highway works, the works have yet to be implemented (this includes the safe crossing to allow students to move between the site and St Leonards Gate). There has been recent personnel changes for the applicant/operator, and over the last 6 weeks there has been significant movement. We now understand that there is an agreed form of words in connection with the Section 278 works as of 26 September 2019. Planning conditions on the extant consent require off-site highway works and access details still to be agreed by the Local Planning Authority. Enforcement proceedings have commenced to ensure that the off-site highway works are implemented within a timely fashion.

## **8.0 Planning Obligations**

- 8.1 There are no planning obligations to secure as part of this planning consent

## **9.0 Conclusions**

- 9.1 The applicant adopted a fabric first approach in the build out of Phase I. Whilst the opportunities for energy supply on site from decentralised, renewable or low carbon energy systems is somewhat lacking, the measures that have been taken throughout the build process to reduce energy and water consumption and limit carbon dioxide emissions are considered acceptable. With the above in mind and through the additional information supplied by the applicant, Officers consider that given the policy backdrop (only encourages as opposed to insisting on sustainable design measures) it would be difficult to defend any appeal should this application be refused. With the above in mind Officers are satisfied that the measures that have been incorporated into the development meet the general ethos of the planning condition and Policy DM36 of the Development Management DPD.
- 9.2 The amendments to the foul water regime from the site emanated from the revocation of the road closure along Caton Road in 2017 by Lancashire County Council and was largely outside the control of the applicant. The scheme has been implemented, but to allow for planning approval it requires written confirmation from United Utilities that the works have been undertaken in accordance with the agreement with United Utilities. Councillors will be verbally updated at Committee on this.

## **Recommendation**

That, subject to no objection from United Utilities, planning permission **BE GRANTED** subject to the following conditions:

1. Approved Drawings;
2. Offsite Highway works implementation;
3. Access Works implementation;
4. Written Scheme of Investigation for Phase II;
5. Surface Water Drainage Scheme;
6. Retention of measures for refuse provision, drop off, cycle storage and cycle runners. Detail for Phase II to be agreed separately;
7. Phase II offsite highway works to be submitted;
8. Ventilation scheme for Phase I in accordance with approved scheme;
9. Landscaping for Phase I in accordance with approved scheme;
10. Public Realm surfacing for Phase I in accordance with approved scheme;
11. External materials for Phase I in accordance with approved scheme;
12. Boundary Treatments for Phase I in accordance with approved scheme;
13. CEMP to be submitted associated with Phase II;

14. Vegetation clearance condition associated with Phase II;
15. Finished Floor Levels agreed on Phase I to be provided associated with Phase II;
16. Development in accordance with the approved phasing plan;
17. Approved Glazing scheme for Phase I;
18. Crime prevention measures implemented for Phase I – Phase II to be submitted;
19. Approval of this application for sustainable energy measures – Phase II to be submitted;
20. Development in accordance with the approved Flood Evacuation Plan;
21. Satellite systems to be in accordance with approved detail for Phase I; Phase II to be submitted;
22. Development in accordance with the approved Travel Plan associated with the development;
23. Deliveries, servicing and maintenance in accordance with the agreed details;
24. Foul water drainage scheme to be developed in accordance with the approved scheme;
25. Remediation Certificate in connection with any contaminated land;
26. Restriction on soils;
27. Development in accordance with the submitted AIA;
28. Development in accordance with the submitted FRA;
29. Development to be occupied by only students;
30. Phase I to be cleaned and maintained in accordance with the approved façade cleaning and maintenance strategy;
31. Lighting for Phase I to be in accordance with the approved detail. Detail for Phase II to be submitted;
32. Permitted Development Rights to be removed under Part 16.

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

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

### **Background Papers**

None