

<b>Agenda Item</b>	A6
<b>Application Number</b>	20/00451/VCN
<b>Proposal</b>	Change of use, conversion and alterations of a retail show room (use class A1) plus associated storage and office into university student apartments (use class C3) with associated recreational facilities, and a silk weaving museum (use class D1) and the erection of a bicycle shelter (pursuant to the variation of condition 2 of planning permission relating to planning application 14/00989/CU to remove the external ramp, porch, cycle shelter from the approved scheme, removal of lean-to to east elevation and creation of landscaped yard and alterations to the internal layout to provide 11 additional student rooms and an internal cycle store)
<b>Application site</b>	Galgate Mill, Chapel Lane, Galgate, Lancashire
<b>Applicant</b>	UK Mills Ltd
<b>Agent</b>	Mr Matthew Atkinson
<b>Case Officer</b>	Mrs Jennifer Rehman
<b>Departure</b>	No
<b>Summary of Recommendation</b>	Approve

## 1.0 Application Site and Setting

- 1.1 The application site is located at the northern end of Galgate beyond the main built-up part of the village within Ellel Parish. It forms part of the listed Galgate Silk Mill complex which comprises several buildings but predominately consists of a former corn mill that was converted to a silk spinning mill in 1792 on the west side of Chapel Lane and the large mill dating 1851-2 on the east side of Chapel Lane. The application site relates solely to the large five-storey brick-built mill on the east side of the road and not the attached buildings around it. The application building, like the other mill buildings in the immediate area, are grade II listed (under 2 separate listings). Ellel House sits alongside the northern boundary of the mill complex and is also grade II listed, along with St John's Church which is situated north of Ellel House. Collectively this group of listed buildings form a small historic core in the northern part of the village. The field north beyond the church is currently being developed for housing.
- 1.2 The Mill complex comprises a mix of employment generating uses and is recognised in the Development Plan as a Development Opportunity Site (under the previous Local Plan the site was previously recognised as a local employment site). The application site consists of two elements namely the 5-storey mill building itself and a proportion of the existing car park at the access into the main complex (north of the mill). The buildings/units attached the application building consist predominately of employment uses - for example, the Silk Mill Garage, a joinery workshop, storage and distribution businesses and a small café. In addition to the existing employment uses, the application site also lies adjacent to existing residential development, namely Crofters Fold to the south and Ellel House and other residential properties on Chapel Lane. Land to the east of the industrial estate is open agricultural land. Land to the west consists of the oldest mill buildings which remain mainly in employment use, although there is a dwellinghouse facing Chapel Lane opposite

the application site. The grounds around the buildings are made up of hardstanding areas of varying condition with ad hoc parking throughout the site.

1.3 The main vehicular access to the mill complex is off Chapel Lane. Chapel Lane extends from the A6 (west of the application site) to Hazelrigg Lane (just under 1km north of the application site) where there is direct vehicular/pedestrian access to the University campus, albeit mainly without the benefit of footpaths. Before reaching the vehicular access to the mill complex (from the south) the road narrows between the eastern and western mill buildings. Here there are no footways. Beyond the village boundary, Chapel Lane is much more rural in character and only supports a narrow footpath for some of its length from Galgate to Hazelrigg Lane. The majority has no footpath and the road is characterised by sharp bends and narrow sections with minimal street lighting. The boundary of the estate with Chapel Lane consists of the buildings themselves, a small natural stone wall at the access and railings immediately in front of the 5 storey mill building. Other boundaries around the site consist of stone walls and lower walls with railings to the northern boundary with Ellet House. A new sub-station is in the process of being installed (to the south side of the estate access) by the utility company under permitted development rights.

1.4 The mill now lies within flood zone 2. This was not the case when the original scheme was proposed. There are no other allocations or designations affecting the site.

## 2.0 Proposal

2.1 The applicant has applied to vary the original planning permission (appeal decision) under the provisions of Section 73 of the Town and Country Planning Act 1990. A Section 73 application provides a useful mechanism to consider minor material amendments to development (i.e. amendments where its scale and/or nature results in development which is not substantially different from the one which has been approved. It is only possible to make such changes to a development where there is a relevant condition that can be varied. The principle of accepting the changes via the Section 73 route, despite an increase in bedroom numbers, was discussed and agreed with the LPA before the application was made. Having regard to case law, officers were satisfied that the increase in student rooms would not result in a substantially different form of developer to that allowed on appeal.

2.2 The applicant seeks amendments to the approved development pursuant to the variation of condition 2 of planning permission 14/00989/CU. The amendments include:

- the removal of an external ramp and entrance porch to the south elevation of the building;
- the removal of a detached cycle shelter (30 cycles) from within the existing car park area that formed part of the approved scheme and the provision of an internal cycle store instead;
- the removal of an existing lean-to extension to the east elevation and the creation of landscaped yard in its place;
- removal of fire escape to east elevation; and
- alterations to the internal layout of the development to remove the glazed lift shaft forming part of the atrium and to provide 11 additional student rooms through re-configuring the internal circulation space/corridors.

2.3 The applicant no longer wishes to install an external ramp and new entrance porch to the side elevation of the building. The entrance into the development will be via the original main entrance on Chapel Lane. The applicant also seeks to remove the new lift within the central glazed atrium and will utilise the original lift shaft within the mill building. During the determination period, the scheme has been amended with the number of new studios reduced from 12 to 11.

2.4 A breakdown of the accommodation as proposed and approved is set out in the table below:

Floor	Section 73 Proposal	Approved
Ground Floor	8 studios, museum, cycle store, office, communal facilities, plant room.	5 studios, museum, communal facilities, office, plant room.
First Floor	26 studios, laundrette, store/plant room	24 studios, laundrette, store/plant room
Second Floor	28 studios	26 studios

Third Floor	28 studios	26 studios
Four Floor	28 studios	26 studios

2.5 Condition 2 of the planning permission lists all the approved plans. The submitted application seeks to substitute the previously approved plans with a list of new plans setting out the changes to the scheme. The application does not seek to amend any of the other conditions save for where they have been complied with as part of the earlier discharge of condition applications.

2.6 This Section 73 application was submitted to the Council and validated in June 2020. The development commenced in May 2019. Between the commencement of development and the submission of the Section 73 application, officers were engaging in informal pre-application discussions over the proposed amendments. Upon submitting the application, development was being carried out in accordance with the extant planning permission (and its associated listed building consent). However, due to the significant delays in the Development Management service and the applicant's commercial commitments, the applicant began to start implementing the amendments sought as part of this pending Section 73 (and associated listed building application). At the point of reporting this application to the Planning Regulatory Committee, the development is nearly complete (based on the proposed changes). Most of the development, in relation to the amendments proposed, is now retrospective.

### 3.0 Site History

3.1 The Mill complex has been the subject of many planning applications. However, the most relevant relate to the parent planning permission and listed building consent, which were allowed at appeal. The details of such are set out overleaf. The Local Planning Authority (LPA) has received and determined a number of discharge of condition applications relating to the decisions referenced below.

3.2 In autumn 2019, during pre-application discussions the LPA confirmed that the approved development had lawfully commenced before the permission had time expired. On this basis, at the point the Section 73 applications were submitted, the approved development was extant.

3.3 As noted above, applicant has progressed with the development (based on the proposed changes) before obtaining the formal consent (both eh Section 73 application and the pending listed building application). The applicant has knowingly done this at their own risk. For most of the development and works, officers have been satisfied with changes and where issues had arisen, earlier in the build programme, they were resolved. For example, the applicant stripped the roof and re-slatted in inappropriate roofing materials and pattern. Works voluntarily stopped on officer recommendation, and the applicant resolved the problem. Works continued to the roof (without consent) but to an acceptable detail. The LPA under enforced in accordance with its Enforcement Charter. However, at the beginning of this year it became apparent that the applicant, despite their submissions confirming all works to be carried out in accordance with the submitted and previously approved details, have installed windows that do not accord with the approved details. Officers are in discussions with the applicant about the unlawful works and the next steps, which is the reason why the corresponding listed building application is not being reported at the same time as this Section 73 application. The LPA is considering formal enforcement action on this matter. Officers will provide the Planning Regulatory Committee more details at the point the listed building application is reported.

Application Number	Proposal	Decision
14/00989/CU	Change of use, conversion and alterations of a mixed use showroom/warehouse with associated storage and office accommodation into 107 student studio apartments (use class C3) with associated communal facilities, a silk weaving museum (D1), cafe (A3), erection of a bicycle shelter and porch extension.	Refused and later allowed on appeal.
15/00271/LB	Listed building application for works to the Mill including removal of external lift and reinstated openings, insertion of new windows, restoration and replacement of drainpipes and hoppers, creation of atrium and light well,	Split decision - refused element allowed on appeal.

	insertion of rooflights, repairs to brickwork and repointing, glazed porch addition, creation of ramp and handrail, security gate, insertion of partitions, ceilings, air conditioning, lift, stairs, internal ramp and flues	
20/00448/LB	Listed Building application for works to the Mill including the removal of the external lift and external fire exit stairs, removal of the single storey lean-to to the east elevation, reinstating openings and the insertion of new windows, the creation of an atrium and light well, installation of external steps and repair to brickwork and repointing, re-roofing, restoration and replacement of drainpipes and hoppers and internal works comprising the insertion of partition walls, ceilings, lift and stairs, internal ramp, flues and ventilation system.	Still pending consideration

#### 4.0 Consultation Responses

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

Consultee	Response
Conservation Team	Comments received, stating the proposal will not alter the overall level of harm to the significance of the Listed building from the previous allowed appeal, which determined less than substantial harm. At the time of the Conservation Officers comments, there remained some details lacking in the submission.
Environmental Health Service	No significant environmental health implications were noted and offer no adverse comments or advice.
County Archaeology	Concerns that the archaeology condition has not been discharged and that the proposed changes omit the boiler house and chimney from the proposals and the museum element of the ground floor area has been reduced in size, questioning the scope for the museum to display significant machinery.
Civic Society	Objection to the original development (14/00989/CU) re-submitted. Concerns raised over the use of the mill for student accommodation, living standards, minimal space for the museum element of the scheme and lack of parking.
County Highways	Concerns over the loss of the external cycle stand providing 30 spaces with internal facilities in the building. Difficult to ascertain the number of spaces proposed.
Lancashire Fire and Rescue Service	Standing advice in relation to compliance with Building Regulations.
Lancaster University	It is unclear from the representations received, whether the comments from the University relate to the previous appeal or the pending application. Nonetheless, the comments received are as follows: <ul style="list-style-type: none"> <li>• University keen to see the City Council's supply and demand evidence for student accommodation</li> <li>• Preference for mixed accommodation rather than higher end studio accommodation</li> <li>• Recommend the development are homes under the LU Homes remit – their accreditation scheme.</li> <li>• Studio flats to adhere to fire service requirements and to provide adequate light levels</li> <li>• Walking route to campus is mainly unlit which poses a risk</li> <li>• Studio apartments are too small</li> <li>• Studios aimed at high end of the rental market only</li> </ul>

4.2 One letter has been received neither objecting nor supporting the proposals. The comments received query the student entrance, noting the originally approved scheme had the entrance to the side of the building and that this is no longer indicated on the approved plans.

## 5.0 Analysis

5.1 The key considerations in the assessment of this application are:

- Principle of development
- Living Conditions
- Cultural
- Traffic, access and parking
- Other Matters

5.2 **Principle of development** NPPF paragraph 7 – 12 (Achieving Sustainable Development), 47 (Determining applications), 54-57 (Planning Conditions and Obligations) Chapter 5 (Delivering a Sufficient Supply of Homes); Strategic Policies and Land Allocations (SPLA) DPD policies SP1: Presumption in Favour of Sustainable Development, SP2: Lancaster District Settlement Hierarchy, SP3: Development Strategy for Lancaster District, SP6: The Delivery of New Homes and DOS4 Galgate Mill; Development Management (DM) DPD policy DM7 Purpose Built Accommodation for Students

5.2.1 Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. Section 73 provides a mechanism to consider and assess minor material amendments to an earlier planning permission. It is not an opportunity to re-examine the principle of the development.

5.2.2 The Inspector's decision to allow the appeal accepted the loss of employment land, the effect of the development on highway safety and contended the proposal provided satisfactory living conditions for future occupants. The Inspector contended that the proposal would detract from the significance of the heritage asset but that the degree of harm would be less than substantial. This harm was weighed against the public benefits of the proposal, including securing the buildings optimum viable use. The Inspector concluded the proposals constituted sustainable development, that it would positively contribute to the district's housing supply and importantly, would prevent the mill from falling into disrepair (securing an optimal viable use).

5.2.3 Since the appeal was allowed, the Development Plan has changed. The Local Plan now allocates the whole of the Galgate Mill complex as a Development Opportunity site. Policy DOS4 states that the Council will support proposals for the regeneration and development of Galgate Mill, subject to meeting several policy requirements. The policy focuses on a conservation-led appropriate recognising the significance of the listed mill buildings within the allocation. Unlike the old Local Plan, current policy recognises that to achieve appropriate regeneration of the site mixed use proposals may be accepted, although the policy still seeks to see a significant element of employment land retained. This policy extends across the whole of the mill complex not just the proposed mill building. This policy is relevant; however, the extant planning permission provides a clear fall-back position.

5.2.4 The principle of the use of the mill as a student accommodation complex with a museum/cafe at ground floor (as well as communal accommodation and living accommodation) is established. Whilst the section 73 amendments include additional studio rooms for student occupation, the amendments are not substantially different to argue the proposed changes result in a different form of development. Therefore, in assessing the proposed changes, the main issues relate to the effects of the proposed works (the amendments) on the special architectural and historic interest of the listed building, the effect on highway safety and whether the proposal continues to provide a satisfactory living conditions for future occupants.

5.3 **Living Conditions** - NPPF Chapter 12 paragraphs 124, 127 and 130 (Achieving Well-Designed Places); Strategic Policies and Land Allocations (SPLA) DPD policy DOS4 Galgate Mill; Development Management (DM) DPD policies DM29 (Key Design Principles), DM7 Purpose Built Accommodation for Students and DM57 (Health and Well-Being).

5.3.1 The approved development comprised 107 studios for student occupation. Despite the Council's concerns that over 37 of these studios would not benefit from an acceptable standard of amenity (largely because of the lack of outlook and access to natural light because of the internal accommodation arrangement (around the atrium) and the semi-basement accommodation), the

appeal was allowed. The inspector contended that despite some conflicts with the accommodation standards set out in the DM DPD, the proposal would create rooms of sufficient size, with adequate daylight to provide a satisfactory living accommodation for students.

- 5.3.2 The proposed amendments do not fundamentally alter the arrangement of the approved student accommodation. The studios remain arranged around a central atrium (5 metres wide as approved) with an internal corridor separating studios that extend around the external walls of the building, benefiting from the large mill windows. The number of rooms around the central atrium remains as approved (eight on each floor except the ground floor). All the rooms around the atrium meet the space requirements set out in the DM DPD (19 sq.m). The main changes relate to the location of the entrance to each floor. The amendments seek to block up the original openings and form new openings to each floor off the original staircase enclosure. This has enabled minor changes to the internal corridors, slight reductions to the size of some studios (but not dropping below the policy requirements and overall ranging between 19 sq.m and 24 sq.m) resulting in the ability to add two additional policy complaint studios to floors 1 to 4. Furthermore and because of the changes, the layout of each room has been able to work around (and retain) the original steel columns which form a significant part of the mill's architecture and special interest. Whilst there are additional studios proposed, the size of each studio is policy compliant and the outlook and access to natural light (for floors 1-4) remains as per the extant permission.
- 5.3.3 The changes to the ground floor are more extensive. The scheme retains the museum element of the development (totals to 189 sq.m) and the communal student accommodation (cinema room, study space, relocated gym), plant room and office. The scheme also retains living accommodation within the ground floor as approved, although 3 additional studios are now proposed at this level. The approved ground floor arrangement proposed 5 studios along the eastern side of the building. These studios previously had no outlook and only benefited from rooflights to be installed in the former lean-to roof. These were accepted on appeal on the basis they were larger rooms and accessible. This section 73 application seeks to remove the lean-to roof (thus reducing the size of the rooms but still meeting the minimum 19 sq.m), retain the original window openings along the eastern wall (these windows were previously proposed to be removed) and remove an internal corridor from the approved scheme (to create more space to provide one additional studio along the eastern wall of the building). The proposed alternations result in a 3.5m wide external courtyard area between the mill and the adjacent mill buildings (outside the application site). The applicant proposes to make good the brickwork and external floor to form a small, landscaped area with an artificial living wall applied to the external walls of the courtyard. Despite a reduction to the size of these 5 (now 6) studio rooms, the changes will improve the outlook and natural light to these studios and are arguably an improvement to the approved scheme.
- 5.3.4 In addition to the extra studio along the eastern wall, the applicant proposes two further studios at the ground floor. These rooms replace the former offices proposed under the approved scheme. The studios have a floor area of 19 sq.m and 22 sq.m respectively and benefit from the large original windows to the south elevation. However, the ground floor is lower than the ground level externally, meaning on this side of the building these rooms do not have an outlook. They do still benefit from the large mill windows, which enables the rooms to have access to natural light. These two rooms are of sufficient size and have access to natural light. However, in the absence of any outlook, they do not conform to the living standard requirements set out in DM7 of the DMDPD.
- 5.3.5 The Inspector when determining the previous proposals, on balance accepted the overall living conditions were acceptable. This included the 5 studios at ground floor level without any outlook and all the rooms facing into the internal atrium. The Section 73 proposals retain the same number of rooms around the internal atrium and now proposes only 2 studios (at the ground floor level) without any outlook (the approved scheme had 5 studios with no outlook at ground floor level). On this basis, the overall effect on the living conditions of future residents is not materially different to the approved scheme. A refusal of the Section 73 proposals, on the grounds of unacceptable living conditions, could not be substantiated.
- 5.3.6 The removal of the side entrance porch and the use of the main mill entrance off Chapel Lane instead, is an improvement to the proposal - to not only the design of the development - but also removes previous concerns over the security. A scheme for crime prevention measures and security was approved by condition under the original scheme. The amendments will not fundamentally alter this. The approved scheme comprised the installation of CCTV and re-use of existing lights

already present on the mill building as well as secure access measures (intercom). This condition will remain in force to ensure the retention of the agreed measures while the building is in use for student accommodation.

5.4 **Cultural Heritage NPPF Chapter 16 (Conserving and enhancing the historic environment); Strategic Policies and Land Allocations (SPLA) DPD policy DOS4 Galgate Mill; Development Management (DM) DPD policies DM29 (Key Design Principles), DM37 (Development affecting listed buildings) and DM39 (The Setting of Designated Heritage Assets).**

5.4.1 The NPPF states that when considering the impact of a proposed development on the significance of a designed heritage assets, great weight should be given to the assets' conservation. Similarly, the local planning authority in exercising its planning function should have regard to s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*. Paragraphs 192-193 of the NPPF seeks to express the statutory presumption set out in s66(1) of the 1990 Act. How the presumption is applied is covered in the following paragraphs of the NPPF, though it is clear that the presumption is to avoid harm. The exercise is still one of planning judgement, but it must be informed by the need to give special weight to the desirability to preserve the heritage asset.

5.4.2 When the Inspector granted planning permission for the conversion of the mill into student accommodation, it was accepted that the proposal would result in less than substantial harm to the significance of the heritage asset as the proposed works/development would be detrimental to its special architectural and historic interest. The Inspector, however, recognised that without the proposal and its attendant public benefits which include securing the optimum viable use for the asset, the mill would be at high risk from disrepair which would be exacerbated by there being no other scheme in place to secure its longer-term future. The Inspector concluded that the public benefits outweighed the less the substantial harm identified and concluded the proposal complied with the NPPF and the local heritage policies in the Development Plan. The proposed Section 73 amendments do not alter the fundamental arrangements and building interventions required for the proposed student accommodation (i.e. the loss of the open plan floor plates and the significant level of sub-division and new suspended ceilings/walls etc to provide the accommodation).

5.4.3 The proposal will involve some minor increases in the level of harm in comparison to the previous application. This relates largely to the blocking up of original openings with brickwork on all floors and the insertion of new openings off the original staircase. The existing openings are not ornate or illustrative of particular construction technologies, but the changes would diminish the illustrative understanding of the historic layout of the building. The loss of the lean-to roof to the east elevation (ground floor level only) was a later addition to the mill building and is less significant. Its loss would not result in significant harm to the significance of the building. The scheme also proposes the removal of the external fire escape. Whilst its retention is preferable, the approved scheme sought to cut it in two and only retain the upper section, which would be structurally challenging. The applicant seeks its removal as part of the Section 73 amendments which would further improve the outlook from some of the proposed studio apartments. The proposal now includes a glazed section in the wall alongside the original engine room to expose this within the development. This will help sustain the heritage value and appreciation of the listed building and is a positive change. The original spiral staircase was removed during construction to install the suspended ceiling. The applicant has committed to reinstating this feature in its original position (part of the museum). A condition will be imposed to ensure this occurs. The loss of the external bike store, which was previously proposed directly in front of the listed café building at the complex access, has been removed with cycle storage incorporated into the internal layout. The loss of the external bike store would not lead to any further harm to the significance of the setting of the listed mill complex. The Council's Conservation Officer has not objected to the proposed amendments. Concerns over the lack of detail in relating to the Section 73 application have largely been resolved (but continue to be negotiated/discussed in relation to the pending listed building application) during the determination period, including several inspections to the site.

5.4.4 As part of the Section 73 application, the applicant did not seek to alter any of the details previously approved by condition. The applicant negotiated an approved window detail with the LPA as part of



the original planning permission and listed building consent, but it has transpired the applicant has installed alternative (not approved) windows. This is a matter currently being discussed in relation to the pending listed building application. For the purposes of this Section 73 application, the approved window detail shall remain a condition of the planning permission if the proposals are supported. This means the applicant will be in breach of their planning permission. The LPA will then pursue any necessary enforcement action accordingly. It is contended that the amendments to the planning permission proposed by this application should not be withheld because of this breach, as the breach can be pursued by the LPA separately.

5.4.5 Overall, the proposal would not alter the overall level of harm to the significance of the listed building in relation to the consideration of the NPPF and local planning policies. The harm would remain 'less than substantial'. It is considered that the minor increase in harm arising from the changes would be justified to allow improved amenity for the long-term uses of the building and that the overall public benefits continue to outweigh the harm to the listed building. On this basis, the development as proposed (and based on the previously approved details) accords with paragraph 196 of the NPPF and policies DM37 and DM39.

5.5 **Traffic, Access and Parking** NPPF: Chapter 9 paragraphs 108-111 (Promoting Sustainable Transport) and Chapter 12 paragraph 127 (Achieving well-design places); Strategic Policies and Land Allocations (SPLA) DPD policies T2: Cycling and Walking Network and T4: Public Transport Corridors; Development Management (DM) DPD policies DM29: Key Design Principles, DM60: Enhancing Accessibility and Transport Linkages, DM61: Walking and Cycling, DM62: Vehicle Parking Provision, DM63: Transport Efficiency and Travel Plans.

5.5.1 The traffic effects of the proposal on the highway network, sustainable travel opportunities and parking demands were significant material considerations addressed and accepted upon the grant of the original planning permission. The approved scheme provided for 5 accessible spaces, 2 staff spaces and 3 spaces for the museum - a total of 10 spaces. A cycle stand for 30 cycles was also proposed as part of the development. The amendments to the scheme alter the parking arrangements and refuse areas and relocate the cycle storage within the existing building. This is largely a consequence of a new sub-station that has been installed by the utility provider (under permitted development rights) in the location where the approved parking was proposed. The scheme retains 5 accessible parking bays and 3 standard parking bays. There is a reduction of 2 parking spaces because of the proposed changes. Due to the extent of land within the application site (and the control of the applicant), its proximity to the access, the position of the new sub-station and the provision of the bin enclosures (larger than previously approved) it is not possible to provide any additional dedicated parking spaces. Cycle provision is now proposed at the ground floor level of the mill building in a room measuring 25 sq.m. The plans show 21 cycles but there is scope within this floor area to increase the amount of cycle parking should demand (through the Travel Plan) become apparent. This could be achieved with two-tier cycle racks.

5.5.2 The Inspector recognised the concerns raised about highway safety arising from the proposal but accepted that the site and Chapel Lane provides easy access on foot or cycling to the university. The Inspector noted the presence of an existing footway along the length of the mill building and noted the appellant's evidence (at the time of the appeal) in relation to highway improvements and parking restrictions and concluded the proposal would be unlikely to compromise highway safety for those using the lane. The Inspector also concluded that the level of parking proposed for the development (having regard to the site's sustainable location and the requirements for a Travel Plan), would equally not compromise highway safety on the local road network. On this basis, the development was approved with only a condition securing the implementation of the Travel Plan. No conditions were imposed in relation to parking provision or off-site highway works.

5.5.3 The loss of 2 parking spaces and a gain of 11 studios would not materially alter the approved position, bearing in mind the Travel Plan aims to encourage sustainable travel modes for students with the accommodation being offered without parking. A condition will be imposed to secure the parking provision proposed by this application. The Travel Plan condition shall be retained but re-drafted to accord with the approved Travel Plan. This requires the Framework Travel Plan to be developed into a Full Travel Plan within 6 months of occupation and after 3 months of the initial surveys. The applicant is aware of their need for ongoing compliance of the Travel Plan. They have confirmed that the development is being advertised as a car-free development and that bicycles have been purchased for future residents (albeit are restricted to use these due to current Covid



restrictions). This alone does not demonstrate full compliance. The initial 3-month travel surveys are unlikely to be meaningful at present due to the pandemic. As such a degree of flexibility is likely to be needed. Nevertheless, the applicant will be required to engage with the LPA and the County Council's Travel Plan teams to comply with their approved Framework Travel Plan. The matter of covenants to prevent students having cars in tenancy agreements goes beyond planning controls despite its good intension. The LPA, in approving condition 5, has not approved a tenancy agreement, rather the terms of what must be included in it in relation to the occupation of the development for full time student occupation. It is not possible to state students cannot own or have cars – this could not be enforced. Overall, it is contended that the changes would not significantly adversely affect the operation or safety of the local highway network above the position already accepted and established by the grant of the original planning permission. In this regard, the changes do not result in a conflict with the NPPF and the Development Plan.

## 5.6 **Planning Conditions**

5.6.1 Condition 1 of the planning permission relates to the time limit. As set out earlier, the LPA is satisfied that development commenced in accordance with the permission and before the planning permission time expired. The time limit condition is no longer necessary. Condition 2 shall be varied to relate to the plans submitted as part of this Section 73 application. Condition 3 requested precise details of various architectural detailing to be agreed and approved. Most of the required detail had been previously agreed by condition. Such details shall be included in the approved plans list. It appears that details pertaining to flues associated with the ventilation system have not been agreed, although the intention of the original scheme was to utilise the historic chimney. Officers are trying to establish the facts and details of any external flue/vent system which, if acceptable, can be dealt with by condition and the pending listed building application. Details pertaining to the glazed porch and external ramp are no longer necessary as these details no longer form part of the development as set out in this application. Condition 4 relates to the hours of work. This shall be re-imposed and remains relevant until the development has been fully completed. Condition 5 relates to the lease arrangements to restrict the occupancy of the development to full time student use. This remains relevant and necessary and shall be reimposed (albeit varied to account for the approved details). Condition 6 restricts the use of the museum/café element of the development for no other purpose. It is noted that there no planning controls on the original planning permission securing a trigger or mechanism for the delivery of the museum. As the changes to the scheme do not fundamentally alter the approved development in this regard, it would be unreasonable to impose such a condition now. Condition 7 relates to security measures. This condition will remain in force based on the previously approved details and amendments where necessary due to the changes to the site entrance. The Travel Plan condition remains relevant and necessary and shall be varied to reflect the approved Framework Travel Plan. Given the majority of the development is completed, the approved Construction Method Statement is no longer judged necessary. This will not be re-imposed if the proposals are accepted. An additional condition is recommended to secure the proposed parking and refuse areas as well as a condition securing the installation of the original spiral staircase. Additional information has been requested in relation to any new brickwork associated with the blocking up of windows and the making good and surfacing to the landscaped courtyard.

5.6.2 The proposed development now lies within flood zone 2. A sequential test is not required where it relates to a change of use, but in any case, there is a clear fall-back position of the extant planning permission. The extant planning permission allows living accommodation at the ground floor level. Whilst there is an increase in studios at this level, the level of risk is not significantly greater than the approved position. The applicant will be recommended to sign up to the Environment Agency Flood Warning scheme so there are appropriate flood warning and evacuation procedures in place to manage the residual risks associated with extreme flood events.

## **6.0 Conclusion and Planning Balance**

6.1 The proposed development results in an increase in 11 studio rooms and associated alterations to the building to accommodate the revised layout. There are several positive changes to the scheme, including the removal of the side entrance porch, the external cycle stands and the creation of an external courtyard to improve the living conditions for the studios at the ground floor level. However, there is a minor increase in the level of harm to the listed building to facilitate this, as set out under the Cultural heritage section of this report. The level of harm remains 'less than substantial'. The

slight increase in harm does not outweigh the wider public benefits of the proposal or significantly worsen the identified impacts when compared to the original planning permission. Subject to the imposition of conditions, the proposed Section 73 amendments are, on balance, considered compliant with the Development Plan and the NPPF. On this basis, the Planning Regulatory Committee is recommended to support the proposed changes to the scheme.

## Recommendation

That the variations to condition 2 of the Planning Permission 14/00989/CU **BE GRANTED** subject to the following conditions:

Condition no.	Description	Type
1	Approved plans (amended)	Control
2	Development to be carried out in accordance previously approved (by condition) architectural details for the windows, doors, atrium, vents, rainwater goods.	Control
3	Construction Hours	Control
4	Student occupation use condition	Control
5	Use of the museum and café	Control
6	Development to be carried out in accordance previously approved crime prevention measures	Control
7	Implementation of the approved Travel Plan	Control
8	Implementation and retention of parking and refuse areas	Control
9	Before completion of the development, the spiral stair case to be re-instated in accordance with the approved plans pursuant to condition 1	Control
10	Brickwork below former lean-to roof to be made-good, cleaned and re-pointed (where needed) in accordance with agreed details and to match existing building and new stone flagged surface to landscaped courtyard to be provided.	Control

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

In accordance with the above legislation, the City Council can confirm that Officers have made this 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 this 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