

<b>Agenda Item</b>	A6
<b>Application Number</b>	20/01109/FUL
<b>Proposal</b>	Retrospective application for the change of use of Industrial Unit (B2) to a dog day care centre (Sui Generis)
<b>Application site</b>	Unit 10, Lansil Walk, Lansil Way, Lancaster
<b>Applicant</b>	Katie Price
<b>Agent</b>	HPA Chartered Architects
<b>Case Officer</b>	Mr Sam Robinson
<b>Departure</b>	Yes
<b>Summary of Recommendation</b>	Approval – Delegate back to case officer to allow for consultation to expire

**(i) Procedural Matters**

This form of development would normally be determined under delegated powers. However, the application was referred to the Planning Regulatory Committee by Cllr Hamilton Cox in line with the provisions of the Scheme of Delegation for reasons related to the retention of and generation of employment, the re-use of an empty unit, the refurbishment of an unit damaged after flooding, the level of empty units in this employment area, the precedents set by other changes of use in this employment area (including a recent appeal decision) and the space available for parking and manoeuvring.

**1.0 Application Site and Setting**

1.1 The property which forms the subject of this application relates to an industrial unit that is two storeys high and is set within the Caton Road Employment Area in north Lancaster. The building is made up of brick walls, under a cement sheeting roof with timber windows and doors, which has metal bar security gates to the windows and doors.

1.2 Caton Road Employment Area is identified within the Lancaster District Local Plan as suitable for business, general industrial and storage and distribution uses as an existing employment area, and is an allocated general employment area and regeneration priority area within the published 'Strategic Policies and Land Allocations (SPLA) DPD'. The application site is also within flood zone 2 and 3 and is susceptible to both ground and surface water flooding events.

**2.0 Proposal**

2.1 This application proposes to retrospectively change the use of the property from an industrial use (B2) to a dog day care centre (Sui Generis). The unit has 83sq.m of floorspace within the subdivided larger building.

2.2 Vehicular access to the site is through the employment area from the north which connects to Caton Road. Outside of the building are 5 car parking spaces and 2 bicycle spaces. The proposal includes no landscaping or new boundary treatments.

### 3.0 Site History

3.1 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
19/01598/FUL	Retrospective Application for the change of use of Industrial Unit (B2) to a dog day care centre (Sui Generis)	Refused
19/00467/FUL	Retrospective application for the change of use from Industrial Unit (B2) to a dog day care centre (Sui Generis)	Refused
83/0620/HST	Change of use from industrial to retail	Refused

### 4.0 Consultation Responses

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

Consultee	Response
County Highways	<b>No objection</b>
Environment Agency	<b>No objection</b> subject to an advice note - the applicant to register for flood warnings
Environmental Health	<b>No objection</b> subject to inclusion of an electric vehicle charging point
Fire Safety Officer	<b>No response</b>
Natural England	<b>No comments</b>

4.2 No representations have been made from the members of the public.

### 5.0 Analysis

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

- **Principle of the use**
- **Highways and parking**
- **Flood risk and smoke control**

5.2 **Principle of the use** (NPPF paragraphs 7, 8, 9, 10, 11, 12, 80 & 83, Policies EC1 & EC5 of The Strategic Policies and Land Allocations DPD (2020) and Policies DM14 & DM15 of the Development Management DPD (2020))

5.2.1 The Local Planning Authority seeks the retention of buildings for employment use where they still have an economic value worthy of retention. The council recognises the importance that employment land has within the local economy. Business and commercial premises provide job opportunities for local people and present opportunities for investment into the local economy. The cumulative loss of employment sites will have an adverse effect on business, employment and on the character of the district. The allocations and protections of employment sites are to ensure these business uses have access to suitably designed and priced units, and ensure the district is able to provide access to employment opportunities for the approximately 78,000 economically active people within the district.

5.2.2 This stance adopted by the council is reinforced by Policy DM14 of the Development Management (DM) DPD which seeks to protect employment sites that have been identified in Policy EC1 of the SPLA DPD. Any proposals that involve the loss of B1 (commercial and business use), B2 (industrial process) and B8 (storage and distribution) will only be permitted where one of the following criteria has been met:

1. It has been demonstrated, through satisfactory and robust marketing which has taken place over a reasonable period of time that an ongoing employment use of the site / premises is no longer appropriate and viable.
2. The location has such exceptionally severe site restrictions, due to very poor access or servicing arrangements, or surrounding land uses make a continuing employment use inappropriate; or
3. The re-use of the employment land meets the wider regeneration objectives set out in the Local Plan in relation to Policy EC5 of the SPLA DPD and where it is clearly demonstrated that the benefits of the proposal outweighs the loss of the site for employment purposes.

The site does not have any severe restrictions given that existing industrial units continue to operate within the site offering existing employment use. The applicant is therefore required to provide evidence to meet the criteria in either point 1 or 3.

5.2.3 Regarding the first point, the application has been accompanied with further information in relation to the sales particulars. The information provided indicates the unit number along with the price (£250 per calendar month) with a date on the small print of the second page of 18/05/2019. Hurstwood Group became the freehold owners in 2018 who purchased the site off London & Scottish Property. Hurstwood confirmed by letter that the site has been advertised on a number of outlets including Rightmove and Zoopla attracting little interest. Hurstwood also confirmed that the site was advertised by the previous owners from September 2017 onwards again with little interest. A copy of the online listings with dates, offers and viewings has been requested by Officers but has not been provided by the agent.

5.2.4 Following Storm Desmond in 2015, the premises became damaged as a direct result leaving the property in a state of disrepair. The state of the unit may well have been a significant reason which dissuaded potential suitors into making an offer. In addition, it is also difficult to gauge that if the property had been repaired and invested in by the owners, they may have garnered more interest. Having said that, the converse could also be argued inasmuch that any repair works may not have resulted in any increase interest. In this instance, the £250 price per month is competitive and would be in the affordable bracket of many small businesses. Furthermore, page 169 of the Council's Review of the Employment Land Position for Lancaster District (2014) document states the south portion of the Caton Road industrial estate is 'older and more rundown with more poor quality premises and while there is potential for the local market, the age and quality of some of the premises are likely to be unattractive to some occupiers.' This would seem to reinforce the claim that certain units within this section of the industrial park struggle to find occupiers.

5.2.5 The changes to the Use Class system in September 2020 have had further implications on the future of designated land employment sites and town centres. Arguably, the most notable change is the new broader Class E which incorporates the old A1 (retail), A2 (financial and professional services), A3 (café/restaurant), B1 (office and light industrial), D1 (non-residential institutions) and D2 (assembly/leisure) uses. This change now allows for more flexibility for units to change within the new Class E and would allow for previous B1 units within any land allocation sites to change without the requirement for planning permission. While it is acknowledged that this is not directly comparable to this proposal given that it has a lawful B2 use and therefore would not fall within the new use class, it is clear that paradigm shift is being adopted by central government putting greater emphasis on flexibility and encouraging business growth wherever possible. This flexible approach is even more pertinent given that for the last 12 months, the Covid-19 pandemic has impacted all parts of society on a global scale. This has impacted many different employment sectors from small businesses along the high street to large multinational companies and will continue to impact upon the vitality and viability of the commercial sector for the foreseeable future given the uncertainty posed by Covid-19. It is considered that both of these factors are a material consideration in the assessment of this planning application.

5.2.6 The agent has also referred to the planning appeal APP/A2335/W/20/3248490 at Unit 1 Lowell House on Caton Road (c.550m away from the application) which has been allowed in between the refusal date of the previous application and the submission of this current scheme. The appeal site was also on Caton Road Industrial Estate and the application involved the change of use of a B2 unit to A1 (bike sales and repair shop). On balance, while the Planning Inspector concluded that the proposal would lead to a very small loss of allocated employment land and premises, and it had not

resulted in any apparent harm to the supply of employment land or premises (it was a retrospective application). In the absence of any tangible harm, there is limited conflict with the aims of the relevant policies. While not directly comparable to this application, there are similarities between the two schemes as both include only a modest loss of allocated employment land and premises and there is little in the way of evidence that either has contributed or will contribute to any harm to the supply of employment land and premises.

5.2.7 By utilising the building, albeit for non-allocated employment use, the proposal brings the building back into use generating a small business growth. The agent has confirmed a slight change to the staffing figures since the initial submission of the application. The employment figures include 2 full time members of staff and while relatively low, will provide a modest addition to the district's employment figures.

5.2.8 Therefore, while this application has included further marketing information in the form of the sales particulars, the application has not included any of the online listings which would include length of time, price and any visits or offers made which would corroborate the information contained within the letter provided by Hurstwood Group. While it is acknowledged that the letter provided from Hurstwood provides some of this information, it is considered that this does not constitute evidence that the site has been robustly marketed and that ongoing employment use of the site is no longer viable. Having said that, considering the modest loss of allocated employment land, changes to the use class system, recent planning appeal on the same allocated employment site and impacts and uncertainty of Covid-19 on employment and economic growth along with a lack of any noticeable harm to the supply of employment land and premises, there is limited conflict with Policies EC1 and EC5 of The Strategic Policies and Land Allocations DPD (2020) and Policies DM14 & DM15 of the Development Management DPD (2020). By bringing the unit back into use within a sustainable location and as the proposal supports 2 full time members of staff this will bring moderate economic benefits to the local area. It is these benefits that weigh moderately in favour of the scheme.

5.3 **Highways and parking (NPPF paragraphs 108 & 110 and Policy DM62 of the Development Management DPD (2020))**

5.3.1 The application form details that there are 5 car parking spaces along with 2 bicycle spaces as part of this proposal and unlike the previous approval, are included in the red edge and meet the minimum car parking spaces requirements of 4.8m x 2.4m.

5.3.2 There is no specific car parking provision stipulated within Appendix E of the Development Management DPD which is directly comparable to the proposed use but it is considered that the use has a number of similarities to that of a day centre or day nursery (old D1 use and new E class). The proposal involves a pick-up and drop-off service for the owners at the start and the end of the day similar to a day nursery with visits expected to be relatively short with the building having a capacity for a maximum of 15 dogs. The maximum car parking standards for day nurse/centre is 1 per member of staff plus 1 space per 10 children. When considered against this application (replacing children with dogs) the maximum requirements would be 4 spaces and as such meets the requirements.

5.3.3 As stated above, the site is located within an employment area, the application site is adjacent to the Lancaster to Morecambe Greenway cycle route and public right of way no.14. Furthermore, the site is accessed off Caton Road, in close proximity to bus stops with a bus service between Lancaster and Kirkby Lonsdale. Therefore, the site is accessible by public transport, on foot and by bicycle, the latter of which has been encouraged through bicycle parking spaces identified on the plan.

5.3.4 The car parking spaces will be at right angles along the north elevation which seems to match the site masterplan. After undertaking a site visit it became apparent that cars were utilising the area opposite the site for parking, but this appears to be an informal arrangement and lacks any formal car parking markings.

5.3.5 The agent has provided a basic travel plan which outlines how the business currently operates and their operating procedures. In relation to the staff, the business currently employs 2 full time members of staff potentially adding a part time member of staff at a later date. In relation to customers, drop-offs occur between 07.30 and 08.30 with pickups occurring between 17.30 and 18.30. These are considered to be outside of peak hours.

5.3.6 Staff will be encouraged to car share, be dropped off, cycle, walk or use public transport in order to travel to work. Given the location of the site and proximity to transport links, residential areas and cycle path, members of staff have a number of options in order to travel to work. The provision of the bike storage facilities would further encourage members of staff to utilise sustainable modes of transport.

5.4 **Flood risk and smoke control (NPPF paragraphs 163 & 164 and Policies DM31 and DM33 of the Development Management DPD (2020))**

5.4.1 The application site is within flood zones 2 and 3 but no flood risk assessment has been submitted with the application. The industrial use of the site is less vulnerable to flooding. There is no equivalent use to the proposal stipulated within the flooding vulnerability guidelines, but the proposed use would also be considered to be less vulnerable as a non-residential institution. In addition, the Caton Road food defences were completed in December 2020 providing further protection for the properties and buildings along the River Lune. Therefore, the proposal would not exacerbate the existing risk of flooding at the site and is acceptable from this perspective.

5.4.2 Environmental Health raises no objection to the scheme but suggested a condition for the inclusion of an electric vehicle charging point to reduce the impact on local air quality and support sustainable transport options. Given that drop-offs and pick-ups are likely to be short trips with short staying times, the benefits and demand for such a unit are limited and considered unnecessary for customers but it is noted there may be benefits for members of staff. However, it is noted that a new B2 business could occupy the premises instead with similar numbers of staff and there would be no requirement for an electric charging point to be installed. Nevertheless, the Case Officer has discussed with the agent whether the applicant is amenable to catering for this inclusion. There has been no formal response from the agent yet and as such a verbal update will be provided at the Planning Regulatory Committee meeting.

**6.0 Conclusion and Planning Balance**

6.1 As the proposed use of the building has resulted in the loss of an allocated employment unit, there is a degree of conflict with Policy DM14. However, given the small-scale loss of land and premises, changes to the use class system, economic impacts of Covid-19 and subsequent appeal on the same employment site all within the last 12 months along with the moderate economic benefits and principle of supporting small local businesses, on balance, the benefits and considerations listed above marginally outweigh the limited harm that has been identified. Consequently, the scheme is recommended for approval.

**Recommendation**

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

Condition no.	Description	Type
1	Development in accordance with plans	Control
2	Provision of car parking and bike parking area	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 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