

Agenda Item	A8
Application Number	23/01216/FUL
Proposal	Erection of Class E units with associated access, parking and loading bay, landscaping, infrastructure and demolition of existing outbuilding
Application site	Land Adjacent Bowerham Hotel Bowerham Road Lancaster
Applicant	Mr Renwick
Agent	Mr Chris Betteridge
Case Officer	Mr Andrew Clement
Departure	None
Summary of Recommendation	Approval

(i) **Procedural Matters**

This application has been requested to be referred for determination by Planning Regulatory Committee by Councillor Hamish Mills, due to impacts relating the highway, non-designated heritage assets and flood risk, seeking to express the views and concerns of local residents and own assessment.

1.0 Application Site and Setting

1.1 The site relates to a walled disused bowling green and a detached stabling outbuilding adjacent to the Bowerham Hotel, within the Local Centre and residential area of Bowerham in Lancaster. The land was previously used as a bowling green, associated with the public house to the south. However, it has not been used in this way for several years, with the KPP Playing Pitch & Outdoor Sports Strategy & Assessment Report concluding:- Bowerham Hotel is not used currently. A bowling team that previously used the site is now displaced to Highfield. The land lies between Bowerham Road to the east, and Trafalgar Road to the west, and is bounded by stone walls on both of these sides. Bowerham Road is at a higher topography than the site, with Trafalgar Road at a lower topography. Avondale Road is to the north, with the site access proposed from Newsham Road to the south.

1.2 The Bowerham Hotel is considered to be a non-designated heritage asset (NDHA), as a remarkably ornate two-storey late C19-early C20 purpose-built public house, with a hipped roof hidden behind a parapet. It is square on plan on a corner plot, and addresses Bowerham Road to the east and Newsham Road to the south. Bowerham Hotel is faced in coursed sandstone ashlar with a rock faced plinth. The Bowerham Hotel is highly unusual, if not unique, in its use of eclectic styles to outstanding effect, the strong sense of rhythm created by the moulded string courses, projecting voussoirs and scalloped parapet is tempered by Classical motifs, such as the pilastered architraves at first floor, which add a sense of order. It provides a fine contrast to the late Victorian housing stock

along Bowerham Road. Its striking appearance is emphasised by its strong, square massing, which is accentuated by its scale, and visually anchors the building in the street scene.

1.3 An outbuilding is located to the west of this, which appears to have been constructed as part of the hotel, possibly as stabling, with an end gable facing onto Newsham Road. The outbuilding has a side wall abutting Back Bowerham Road to the west, and is constructed of stone with a slate roof, although roof slates have recently been removed. It is a modest, attractive and well-proportioned building which provides contrast to the hotel and indicates the historical, functional uses in this area in the late C19-early C20. Between this and the public house is an existing vehicular access and a small parking area. To the west of the site are rows of two-storey terraced dwellings on Trafalgar Road, including a small takeaway in the nearest end terrace. To the north of the site is a row of dwellings fronting onto Bowerham Road, and three dwellings fronting Avondale Road, backing onto the site, with the latter at a lower topography given the changing ground levels. The application site is elevated above Trafalgar Road to the west, with rows of terraced housing along a predominantly east-west road layout, but set down from Bowerham Road to the east. A row of stone-under-slate 2- and 2.5-storey tall terraced houses front facing towards the site from the east on the opposite site of Bowerham Road.

1.4 Part of the site adjacent to the eastern boundary wall within the site is identified as being at low risk from surface water flooding (1 in 1000-year event), within an area susceptible to ground water flooding for potential groundwater flooding below ground level, at medium risk category. The bowling green is a designated open space, recreation and leisure area, adjacent to the designated Bowerham Urban Local Centre. The site is circa 800 metres south of the Lancaster Air Quality Management Area (AQMA), and within a smoke control area covering the majority of Lancaster. Bowerham Road forms part of the designated cycle route.

2.0 Proposal

2.1 Planning permission is sought for the erection of retail unit(s), with a two-storey development to Bowerham Road, single storey tall to the rear. The application includes associated carparking area, accessed through widening an existing vehicle access onto Newsham Road, facilitated by the removal of the existing former stabling outbuilding. The retail building has a footprint of circa 465sq.m, measuring 28.8 metres deep between Bowerham and Trafalgar Road east to west, and a maximum of 18.8 metres wide, with a 17-space carpark to the south between the proposed building and the Bowerham Hotel. Deliveries are to be taken to a compound and goods-in area to the west of the proposed retail building, with a turning space within the proposed carpark. Sections of existing circa 2.5 metres tall stone wall to Bowerham Road are proposed to be removed to provide a frontage to the retail unit to this road and visibility of the proposed carparking area from this eastern perspective, with elements of this stone incorporated into the front elevation facing Bowerham Road.

2.2 The proposed development measures a maximum of 7.8 metres tall to the ridge perpendicular along Bowerham Road, with an eaves height of circa 5.6 metres. The proposed retail space is to the upper floor accessed from Bowerham Road, with the a larger space across the ground floor presenting window opening to Bowerham Road but fronting and accessed from the internal parking space facing south. The wider site area is to be bound by partial retention of the tall natural stone wall to Bowerham Road, with shrub planting, trees and hedges to the north and northwest boundaries to the site. The proposed development is to be finished in natural stone walls under a natural slate gable roof to Bowerham Road and hipped roof to the single storey rear element, with traditional design to Bowerham Road and more contemporary entrance and eaves dormer window features to the south facing elevation across the proposed carpark.

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
22/00551/FUL	Erection of single storey building comprising of two retail units (Class E) with associated access, parking and loading bay, erection of acoustic fence and demolition of	Refused and dismissed at appeal

	existing outbuilding	
21/01404/PRETWO	Erection of 373sqm convenience store, 111sqm retail unit with three no.2 bedroom apartments and one no.3 bedroom apartment in a two and a half storey building with car parking and associated development with access from Newsham Road	Advice provided
18/01526/FUL	Erection of a mixed use scheme comprising two retail units (A1) and 49 1-bed student accommodation studio flats, conversion of existing outbuilding to create 4 1-bed student accommodation studio flats and associated access, parking and loading bay	Refused and dismissed at appeal
17/01437/PREMTG and 17/01192/PRETWO	Erection of a three storey mixed used development comprising of retail units with key worker/student apartments above, including new access and car parking	Advice provided
16/01030/PRETWO	Mixed use development	Advice provided
16/00543/FUL	Demolition of outbuilding and erection of two 2-bed dwellings	Refused

4.0 Consultation Responses

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

Consultee	Response
Bowerham Ward Councillor	Objection , due to adverse impacts relating the highways, non-designated heritage assets and insufficient flood risk assessment
County Highways	No objection , subject to planning conditions for a construction management plan, implementation of off-site highway works for parking restrictions, implementation of vehicular and cycle parking provision, and wheel washing provision during construction.
Environmental Health	No objection , subject to planning condition for a contaminated land assessment, implementation of mitigation measures within the submitted noise assessment, and controls to hours of opening (7am to 11pm), operations (6:30am to 11:30pm), deliveries (7am to 7pm) and construction (8am to 6pm weekdays, 8am to 1pm Saturdays)
Natural England	No observation received
Conservation Section	No observation received
Public Realm	No observation received
Fire Safety Officer	No objection , informative regarding emergency vehicle access and water provision
Lancaster Civic Vision	No objection , question the need for retail development in Bowerham, note improvements on previously proposed and refused developments at this site. Concern regarding exacerbating traffic congestion
Engineering Team	No observation received
Tree Officer	No adverse comment
Sport England	No adverse comment , guidance regarding the loss of any sport facility

4.2 The following responses have been received from **63 objections** and **2 observations** from members of the public:

- Exacerbating traffic and parking problems locally, and hazards to local junctions
- Road safety concerns and dangerous transport impacts, particularly upon local children/pupils and limited visibility from side streets
- Inappropriate access for larger vehicles, accessed from a narrow side street
- Parking beats survey undertaken over a bank holiday weekend, not an ordinary traffic situation nor reflective of ordinary traffic movements and parking requirements
- Adverse impact upon existing established retail businesses, no local need for additional retail
- Loss of green open space, ecological impacts and loss of outdoor sport facility/beergarden
- Flood risk and drainage/sewerage

- Noise and pollution, particularly from deliveries and air conditioning, littering
- Adverse impact on light (overshadowing and light pollution), overlooking, overbearing and residential amenity, particularly from proposed tall boundaries
- Loss of characterful wall to Bowerham Road, demolition of historic structures
- Uncharacteristic appearance of the development in the street scene
- Reduce house prices locally
- Lost opportunity for community use/space, such as park or allotments

5.0 Analysis

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

- Principle of the retail use
- Scale, design and impact on the character and appearance of the area and non-designated heritage asset
- Residential amenity of neighbouring properties and noise
- Accessibility, parking and highway safety
- Flood risk and drainage
- Ecology and loss of open space
- Other matters

5.2 **Principle of the retail use** Development Management (DM) DPD policies DM14 (Proposals involving Employment Land and Premises), DM15 (Small Business Generation), and DM18 (Local Centres), 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), SP5 (The Delivery of New Jobs), TC1 (The Retail Hierarchy for Lancaster District) and TC3 (Future Retail Growth) and National Planning Policy Framework (NPPF) Sections 2. (Achieving sustainable development), Section 4. (Decision-making), Section 6. (Building a strong, competitive economy) Section 7 (Ensuring the vitality of town centres), and Section 11. (Making effective use of land)

5.2.1 The application proposes a retail/commercial use of the proposed part-two-storey part-single-storey building. The floor plans show this space divided into two units, with a combined floor area of circa 510sq.m, with retail space at ground floor of 285sq.m and first floor 104sq.m. Bowerham lies outside of Lancaster City Centre, but forms part of an identified Local Centre within SPLA DPD Policy TC1. As such, the location is appropriate for commercial development providing key services to local residents proportionate to the locality, with policy DM15 providing support for small business generation.

5.2.2 Other services within Bowerham are located slightly further south, with a public house, retail, hairdressers, pharmacy and other local services, and these are predominantly units with smaller internal floorspaces than that proposed. However, the proposed retail floorspace is considered to be proportionate to this Local Centre, measuring 285sq.m and 104sq.m retail floorspace respectively, with additional storage and back of house facilities. It is considered that these are proportionate to provide a basic level of services for the neighbourhood and communities they serve, without directly competing with the retail offer within the larger Lancaster City Centre.

5.2.3 Whilst a widespread response within public consultation information questions the need, or lack of need, for additional commercial and retail space within Bowerham Local Centre, it is not for the planning authority to restrict or limit the provision of such space within a particular area. Planning policy supports and encourages the creation of small commercial units in appropriate locations, such as designated Local Centres, to provide key services to local residents. As such, the principle of retail development within the Local Centre of Bowerham is considered to be acceptable, and the economic benefits of such development and increased commercial activity from the site weigh in favour of the proposal. To ensure these units remain of a scale to provide key services to local residents, as opposed to competing with larger town centre units, the scale of gross floor area proposed should be controlled planning condition, split across at least two separate units.

5.3 **Scale, design and impact on the character and appearance of the area and non-designated**

heritage asset Development Management (DM) DPD policies DM17 (Retail Frontages), DM21 (Advertisements and Shopfronts), DM29 (Key Design Principles) and DM41 (Development Affecting Non-Heritage Assets or their settings), Strategic Policies and Land Allocations (SPLA) DPD policy SP7 (Maintaining Lancaster District's Unique Heritage), and National Planning Policy Framework (NPPF) , National Planning Policy Framework (NPPF) Section 12. (Achieving well-designed places) and Section 16. (Conserving and enhancing the historic environment)

- 5.3.1 The site lies within the predominantly residential area of Bowerham, characterised principally by small scale 2-storey Victorian sandstone terraced properties. Bowerham contains a number of small local shops, often formed within converted ground floor of former residential properties. The Local Centre focuses around the much larger Bowerham Hotel public house, creating a mature and visually diverse streetscene. The Bowerham Hotel lies adjacent to the application site, fronting onto Bowerham Road and Newsham Road, and has been identified as a non-designated heritage asset (NDHA) by the Council. It opened around 1901 and is constructed in coursed sandstone with a hipped slate roof, set behind a stone parapet, and is a largely unaltered Victorian period hotel with eclectic revival architectural influences. The hotel has an attractive symmetrical design, with eclectic revival architectural influences which was popular in the early-20th century, creating an attractive and distinctive landmark feature. It is situated in a landmark position on the corner of two roads, which emphasises its architectural prominence and design. The stabling outbuilding and long tall boundary stone wall to Bowerham Road both contribute positively to the setting of this NDHA. The site is highly prominent from Bowerham Road within the Bowerham Local Centre, with further elevated viewpoints up to Lonsdale Road to the west and the roads running perpendicular to this towards the application site.
- 5.3.2 A variety of design, scale and appearance of development have been progressed at the site over almost a decade. The last proposal, refused and dismissed at planning appeal, the latter referenced APP/A2335/W/22/3311459, was found within this appeal by the Planning Inspector, that on balance this would not harm the setting of the Bowerham Hotel and character of Bowerham Road, despite this forming a reason for refusal. The design reasons for refusal for impacts upon Trafalgar Road of this preceding scheme were upheld in dismissing the scheme at appeal, but impacts upon Bowerham Road and Hotel were found to be unarmful by the Planning Inspector.
- 5.3.3 The proposed design and development has been amended through the course of this application, to address officer concerns with the proposal, albeit with negotiations undertaken with the previous appeal in mind. The impacts upon Bowerham Hotel NDHA from the loss of the former stabling outbuilding, partial loss of the boundary wall, visibility of the carpark were accepted as unarmful by the Planning Inspector. The partial removal of the characterful boundary wall to Bowerham Road and outbuilding is to be partially mitigated by incorporating and re-using the natural stone from these features into the ground floor Bowerham Road elevation of the proposed development. Concerns with the incongruent single storey height and appearance of the proposed development to Bowerham Road have been addressed with the addition of a first floor, within a development that is still subservient to the adjacent dwellings and Bowerham Hotel, but in proportion with the Bowerham Road streetscene. The elevations contain design, materials, window arrangements and roof features that all reflect the surrounding built form, in a design similar to the surrounding commercial units in former residential properties, but with a contrast in upper floor stone and likely subsequent signage to differentiate this as new and commercial within this Local Centre. The design of the proposal is considered to be appropriate to the character of the area, and an improvement upon the previous scheme that was refused at this site.
- 5.3.4 The preceding refused application was dismissed and upheld for the reason of harmful impacts upon Trafalgar Road, which has proposed an acoustic fence up to 1.5 metre tall atop an existing over 2-metre-tall stone wall along more the 55 metres of the eastern head of Trafalgar Road. This was found to be harmful by officers and the Planning Inspector. The current application has sought to address this by removing the proposed fencing, and instead planting landscaping along and atop of this existing boundary stone wall. The trees and hedgerow in this location would provide a more natural and softer screening of the carparking and commercial activities within the site from Trafalgar Road, similar to the existing vegetation in this location. Full details of how this would be managed and maintained would be required, particularly species, staggering and heights of hedges, which are setback from walls by circa 1.3 metres. However, this boundary treatment and landscaping is considered to be an improvement of the current proposal, and has addressed the harm previously identified along Trafalgar Road from the proposal.

5.3.5 Overall, the design is considered to be an improvement upon the previously refused scheme, more congruent to Bowerham Road and the streetscene, with a much softer and unarmful impact upon Trafalgar Road. Whilst the removal of the former stabling outbuilding for access and partial removal of the boundary wall to Bowerham Road will undoubtedly be noticeable changes through removal of established features in the area, these formed part of the previous refusal and appeal, with the Planning Inspector determining that these elements were justified, despite dismissing the appeal on other grounds. However, to prevent unjustified demolition and removal of the stables and characterful boundary wall, a condition should prevent these demolitions until there is a contract legally in place to secure the commencement of the new development immediately following demolitions. Subject to this and the use of high-quality natural materials within the development and appropriate boundary landscaping, controlled through planning conditions, the design, scale and appearance of the development is considered to be appropriate, and would have no adverse impact upon the streetscene and character of the surround area of Bowerham, and would have no adverse impact upon the non-designated heritage asset of Bowerham Hotel.

5.4 **Residential amenity of neighbouring properties, noise and pollution** Development Management DPD policies DM29 (Key Design Principles), DM31 (Air Quality Management and Pollution) and DM32 (Contaminated Land, Strategic Policies); Strategic Policies and Land Allocations (SPLA) DPD Policy EN9: (Air Quality Management Areas), and National Planning Policy Framework (NPPF) Section 8. (Promoting healthy and safe communities) and Section 12. (Achieving well-designed and beautiful places)

5.4.1 The submitted noise assessment indicates that the noise egress from the proposed development would exceed the typical measured background noise level by +2 and +5dB at the façades of the most noise sensitive receivers during the daytime period. The noise assessment includes mitigation measures of CO2 packaged gas cooler and low noise card air conditioning units, located within an external rear plant compound bound by 1.8 metres tall acoustic fencing, with landscaping around this to the north and west. The CO2 Packaged Gas Cooler unit will operate throughout the night- time however, the air conditioning condenser units will operate during daytime hours only.

5.4.2 The preceding appeal maintained the reason for refusal for adverse noise impacts, however this application contains further details of plant machinery and proportionate mitigation measures, which the Environmental Health consultee recommend should be controlled through planning condition. The Planning Inspector was primarily concerned with night-time noise, due to the existing noise environment during the day lessening this impact. Environmental Health have recommended conditions restricting opening, operations, deliveries and construction hours, to avoid the nights and evening in the cases of more disruptive activities of construction phase and deliveries. Whilst concern within the public consultation responses with this regard is noted, given the additional information and mitigation measures submitted as part of this application, and planning conditions and restrictions recommended by the Environmental Health consultee, it is considered that the proposal would have no undue adverse noise impacts upon residential neighbours.

5.4.3 The proposed development has taller elements than the preceding refused and dismissed scheme, although this taller element is only inline with the blank side elevation of no.3 Hanmer Place to the north. To the rear of this, the single storey element has been reduced in height with a flat roof to the northern aspect. Importantly, the height of this element has reduced by almost a metre along this northern boundary, due to the reduced ground floor finished floor level, and this is setback 4.4 metres from the northern boundary, as opposed to being just beyond a narrow walkway in the previously refused and dismissed scheme. The increased space to the north is to be hedgerow and landscaping, softening the visual appears and the back end and side of properties to the north. These element of the proposal are considered to have addressed the overbearing impacts upon neighbouring properties to the north, through increased setback and soften visual through landscaping. It is considered that the proposal has sufficiently reduced height and increased setback of built form to the north to result in no adverse impact upon neighbouring residential amenity, in a location where tight urban grain is characteristic of the area.

5.4.4 The proposed development has no windows facing north or west, and is located over 20 metres from the dwellinghouses on the opposite side of Bowerham Road and the Bowerham Hotel to the south. The proposed development is in line with the adjacent properties along Hanmer Place, again reflecting the urban grain. Furthermore, the proposed development has lower finished floor levels

than neighbouring properties to the east and south, reducing overlooking impact from the proposal. As such, there proposal is considered to have no adverse impact with regards to overlooking and privacy. As such, due to the design, scale and increased setback distances, it is considered the development would have no undue adverse impact upon neighbouring residential amenity, subject to conditions to ensure noise impacts are mitigated.

5.5 **Accessibility, parking and highway safety** Development Management DPD policies DM29 (Key Design Principles), DM57 (Health and Well-being), DM60 (Enhancing Accessibility and Transport Linkages), DM61 (Walking and Cycling), DM62: (Vehicle Parking Provision), Appendix E (Car Parking Standards), Strategic Policies and Land Allocations DPD T2: Cycling and Walking Network, T4 (Public Transport Corridors), PAN08 (Cycling and Walking), National Planning Policy Framework (NPPF) Section 9. (Promoting sustainable transport)

5.5.1 The application proposes a new widened access off Newsham Road, with 17 parking spaces and turning space for delivery vehicles between the proposed retail building and the retained elements of Bowerham Hotel, and goods-in area to the west of the proposed building. To facilitate the proposed widened access, the existing stabling outbuilding is proposed to be demolished, with circa 30 metres of on-street parking restrictions through double yellow lines between the proposed site access and Bowerham Road to facilitate larger vehicle access and egress from the site. This would remove 6 on-street parking spaces through the provision of such yellow lines and loss of space in front of the proposed site vehicular access. The proposed turning area for the delivery and waste collection heavy vehicle movements is across the sought customer/employee car parking area. The entrance to the larger unit in front of the proposed carpark would encourage greater use of this, rather than parking on Bowerham Road. Furthermore, there is suitable provision for convenient access on foot or by bike, with ramps and cycle parking Sheffield stands proposed.

5.5.2 The loss of these on-street parking spaces has sought to be justified by the submission of a parking beat survey, which concludes that there is sufficient on-street parking availability in the vicinity to accommodate the loss of spaces through this proposal. Whilst local concerns have raised that this survey was undertaken during a bank holiday, County Highways concur with the conclusions within the report and the submitted transport statement, with no objection to the proposal subject to details and implementation of the proposed access and parking provision, double yellow lines and bus-stop improvements, and a construction management plan to mitigate highway impacts during construction. These matters are controllable through planning conditions.

5.5.3 Given the likelihood of passing traffic visiting the proposed development, provision of 17 parking spaces within the site provides a ratio of 1 space per 23sq.m of commercial floorspace. There is also potential for these spaces to be used for linked visits to the site and neighbouring business premises. As such, and with no objection from County Highways, it is considered that the proposal would have no severe undue impact upon the public highway and parking provision, despite the scale of local concerns with this regard. The proposal is in a location accessible by public transport, and restricting the unit floorspaces to local level scale would encourage a larger proportion of trips on foot or by bicycle. Bicycle parking for both customers and employees of the site can be controlled through planning condition. Subject to the aforementioned planning conditions, the proposal is considered to sufficient encourage sustainable transport and result in no severe harm to highway safety. County Highways conclude that the level of vehicle movements to and from the development would not have a significant impact on the operational performance of the local network.

5.6 **Flood risk and drainage** Development Management (DM) DPD Policies DM33 (Development and Flood Risk), DM34 (Surface Water Run-off and Sustainable Drainage), DM35 (Water Supply and Waste Water), DM36 (Protecting Water Resources and Infrastructure), and DM57 (Health and Wellbeing); Strategic Policies and Land Allocations (SPLA) DPD Policy SP8 (Protecting the Natural Environment); National Planning Policy Framework (NPPF) Section 14. (Meeting the challenge of climate change, flooding and coastal change)

5.6.1 The preceding refusal included a reason relating to surface water drainage, and insufficient information submitted. Further information was submitted for consideration during the course of the appeal process, which was accepted and this reason for refusal was not defended through the appeal, but was ultimately dismissed on other grounds. Whilst no observation has been received from engineers to this application, it is considered that precise details of drainage arrangements and mitigation can be controlled through suitably worded planning conditions. This will ensure that foul

drainage is directed to the nearby mains sewers, and surface water is attenuated to discharge at existing rates or better, ensuring no exacerbation of flood risk beyond the site.

- 5.6.2 The site falls within Flood Zone 1, over 450 metres from areas of Flood Zone 2 and 3 due to separation from rivers and the sea. Surface water flooding impacts the north and west boundaries just within the site are a low risk from 1in1000 year events. Over half the site is at medium risk of groundwater flooding, which could occur below ground level, with the remainder of the site at lower risk of limited groundwater flood risk. New development in areas vulnerable to flood risk are required to meet the Sequential and Exception Tests as appropriate, and to demonstrate the site is not at risk of flooding and would not increase the risk of flooding elsewhere.
- 5.6.3 The sequential test is to be applied to steer development to areas with the lowest risk of flood from any source. A sequential assessment has been submitted as part of this application to address this matter. The proposal is located within a Local Centre, a commercial area where proportionate commercial development is encouraged to serve the local community. Given that such development is directed to Local, Town and City Centres, looking at alternative sites within these designated centres is considered to be suitable for this proposal, excluding other areas that would not be policy compliant for such a proposal for retail/commercial space to the ground and first floor. The application site is considered to be immediately deliverable in terms of timeframe for development, with multiple applications previously sought to develop the site.
- 5.6.4 For a site to be sequentially preferable to the application, it would need to have lower risk than the recognised medium groundwater flood risk at the site, with small area of low surface water flood risk within the site. The submitted sequential test has assessed various centres within the district both within and beyond the above agreed parameters for the sequential assessment for the development in terms of floorspace. However, it has focussed on sites brought forwards through the Local Plan, and does not look beyond those to other sites granted planning permission or other windfall sites that could be available.
- 5.6.5 Lancaster University is a designated local centre, and the submitted sequential test does not sufficiently explore this area, simply discounting due to lack of allocated housing and employment sites, without exploring whether these are actually premises or land available to accommodate the proposed commercial use on campus. This is insufficient justification to discount a whole local centre. Sequential assessments of other local centre similarly focusses too narrowly on sites brought forward through the Local Plan only, rather than actual sites that could accommodate development within this local centre. As an example, within Heysham Local Centre there is a circa 500sq.m vacant site of the former Policy Station, which has previously been granted planning permission for similar scale commercial development to the ground floor of the proposal, and apartments above. Whilst the original sequential test mentions this site, it is discounted for being too small, despite the site being able to accommodate the physical development, albeit with a 9-bay carpark, rather than 17 proposed. Given this scale of 9-bay carpark within the public highway was considered appropriate in approving the development at this former Police Station site, it is considered that insufficient justification has been provided to discount this site within the sequential test, which does not elaborate on why the site cannot accommodate the proposal nor explore whether this is reasonably available for such a development. The Councils sequential approach also requests consultation with professional property agents with demonstrable knowledge and understanding of the local land and property market, which has not been undertaken within the submitted sequential test.
- 5.6.6 The above assessment does not comprehensively explore all alternatives within local centres, but more importantly neither does the submitted sequential test. On this basis and due to the highlighted deficiencies and alternatives not assessed nor considered within the sequential test, it is considered that the sequential test fails, as the one provided is inadequate. Failure of the sequential test means that it is not necessary to apply the exception test, but also the 'less vulnerable' flood risk category of the proposal negates the requirement of an exceptions test for the risk of flooding at the site. NPPF paragraph 168 states that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding, whilst the associated flood risk and coastal change guidance states that where the sequential and the exception tests have been applied as necessary and not met, development should not be allowed. These statements appear rather categorical, but such matters can be weighed into planning balance along with other material considerations of the proposal. Given the 'Less Vulnerable' risk of the

sought use combined with the medium risk of flood from groundwater to part of the site, in this case it is considered pragmatic to do so.

- 5.6.7 Taking account of all sources of flooding, large swathes of the district are at risk from one or multiple sources of flooding. It is considered that the submission has failed to rule out all other potential sites within local centres at lower risk of flooding than the application site. However, this should be assessed in the context of a commercial development, which is within the 'Less Vulnerable' to the risk of flooding, also containing uses such as car parks. Only 'Water-Compatible Uses' such as docks and coastguard centres considered to be lesser risk from flooding. If flooding were to occur at the site within the lifetime of the development, whilst there would be a commercial impact and potential inconvenience to employees and customers, this would clearly be less impactful than 'More Vulnerable' uses, such as people's homes, hospitals and care homes, where flooding has far greater repercussions.
- 5.6.8 The flood risk at the site is low from surface water, 1in1000 year events, with approximately a third-low and two-thirds-medium ground water flood risk, the latter of which is understood to represent potential for groundwater flooding of property situated below ground level. This medium risk affects the rear (eastern) portion of the site used as goods-in and storage areas, as well as rear section of commercial floorspace, all situated above ground level. It is noteworthy that flooding of property situated below ground level would have less impact for a proposal with no basement such as this. The areas of cumulative impact to the eastern edge of the site from both ground and surface water, but both these risks are low in this area, so cumulatively considered no more than medium risk.
- 5.6.9 The NPPF and associated national guidance attaches great significance to avoiding flood risk, and directing new development to the areas of lowest risk. This should ideally come forwards through the Local Plan and allocations of sites for appropriate development. Even through this Local Plan process, in Lancaster District this has resulted in housing and employment allocations in locations at known risk of river and sea flooding, due to the lack of alternative sites to meet the development requirements for the district over the plan period. Furthermore, those at 'More Vulnerable' risk, such as residential sites, would more likely be directed to the lowest flood risk areas through the current Local Plan review process, with 'Less Vulnerable' commercial and industrial uses allocated following this, once residential allocations have been directed to the most appropriate sites at lowest risk. Whilst this Local Plan review process has only recently begun, from the currently adopted plan position and knowledge of constraints in the district, it will be unachievable for all the districts development needs to be on land at no or low risk of flooding.
- 5.6.10 For windfall sites such as this, proposals must demonstrate they have considered all sources of flooding, which is a significant task in terms of assessing alternatives, particularly when developers have multiple other commercial considerations in terms of locations for development. When considering all sources in a district as constrained as Lancaster, it will not always be pragmatic to expect all development to have no or low risk of flooding from all sources. Given the relatively low likelihood/frequency of groundwater flooding situated below ground level affecting part of the site, combined with the less harmful impacts of such events upon 'Less Vulnerable' uses such as the proposal without a basement, it is considered that this reduces the severity of such impacts, and proportionately reduces the weight of harm attributed in planning balance.
- 5.6.11 Due to the severity of significance placed on the failure of the sequential test within the NPPF and guidance, balanced with the actual risk and extent of impact from risk of groundwater flooding below ground flooding to a 'Less Vulnerable' use without a basement, it is considered that the failure of the sequential test and lack of conclusive evidence in directing development to areas at the lowest risk of flooding has limited to moderate harm weighing against this proposal. The limited to moderate harm identified presents conflict with local and national planning policies with regards to flooding, which should be proportionately and pragmatically weighed against the merits of the proposal. This task is undertaken in the conclusion and planning balance section of this report.
- 5.7 **Ecology and loss of open space** Development Management (DM) DPD policies DM27 (Open Space, Sports and Recreation Facilities), DM43 (Green Infrastructure), DM44 (Protection and Enhancement of Biodiversity) and DM45 (Protection of Trees, Hedgerows and Woodland); Strategic Policies and Land Allocations (SPLA) DPD Policy SP8 (Protecting the Natural Environment); National Planning Policy Framework (NPPF) Section 15. (Conserving and enhancing the natural environment)

- 5.7.1 The proposed development will cause the loss of all habitats on site, including the stabling outbuilding. However, the submitted ecological survey concludes that the existing site is of poor ecological value, with no evidence of bat activity or suitable bat roost habitat. The site supports very limited suitable bird nesting habitat, and subject to a planning condition requiring removals outside of bird nesting season as recommended in the submitted survey, the proposal will cause no undue harm to protected species. To ensure biodiversity net gain, soft landscaping should include suitable provision of flowering perennial species in addition to bat and bird boxes within the proposed development. Whilst the information submitted in these regards is scant, the landscaping proposal includes 2x heavy standards and 3x select standard tree, double staggered cherry laurel hedging and native shrubs, and subject to a planning condition requiring full details of ecological enhancement measures and implementation and maintenance of landscaping, biodiversity net gain is considered to be achieved through the proposal.
- 5.7.2 During the site visit a number of picnic benches were placed across the site and appears to have been most recently used as a beer garden associated with the Bowerham Hotel. However, up until 2015, the site was actively used as a bowling green, and whilst the site has been disused for sport since the bowling team was displaced to facilities at Highfield, the Lancaster Playing Pitch and Outdoor Sport Strategy recommends mitigation of the loss through investment in alternative bowling provision, as opposed to an aim to protect this designated sports site. Therefore, whilst the site is designated as and Outdoor Sports Facilities, which ordinarily should be protected from inappropriate development, subject to appropriate mitigation it is considered that the permanent loss of this provision for development could be supported.
- 5.7.3 DM DPD Policy DM27 establishes the circumstance by which the loss of open space and sports provision could be supported. No assessment has been submitted evidencing that the site is surplus or no longer of value, and a number public of consultation response attest to the value of the site as local green space. Whilst the Lancaster Playing Pitch and Outdoor Sport Strategy identifies the site as disused without an aim to necessarily protect this provision, it recommends that mitigation is required for any loss of the site, effectively the third criteria of Policy DM27. Whilst the poor maintenance and condition of the bowling green does not justify its loss, the loss of the bowling green is considered to be acceptable if compensation is provided for this loss in order to improve facilities at nearby bowling greens, as recommended in the aforementioned strategy.
- 5.7.4 The Public Realm Officer and Planning Policy have advised that this could be used to improve the quality of facilities at Palatine Recreation Ground and/or Highfield Recreation Ground, where the majority of the Bowerham Bowling team relocated. The application statement includes a suggested contribution of £70,000, a sum and mitigation scheme that was agreed through an executed Section 106 agreement through the appeal dismissed last year. This sum and project were agreed with Public Realm colleagues when deciding not to defend the reason for refusal for the loss of open space at the preceding appeal, subject to this obligation being provided for improvements to the bowling green, pavilion and shelter projects at Highfield Recreation Ground. Such projections and contributions could alternatively be delivered at Palatine Recreation Ground a short distance south of the site. This position of Public Realm has been reiterated in the consultation response to this planning application. As such, the sum is considered to be appropriate and proportionate compensation for the permanent loss of the bowling green at the site, directly mitigating the impacts upon those displaced to Highfield.
- 5.8 **Other matters** Development Management DPD Policies DM29 (Key Design Principles), DM30 (Sustainable Design), and DM31 (Air Quality Management and Pollution); Strategic Policies and Land Allocations (SPLA) DPD Policy EN9 (Air Quality Management Areas)
- 5.8.1 An energy statement has been submitted with this application, detailing building fabric and fenestrations that would exceed the minimum requirements of building control Part L2A, and heating through air source heat pumps and lighting through LEDs only. The installation of these measures would exceed the minimum requirements with a 12.1% reduction in CO₂ achieved by the suggested measures, which is considered to be policy compliant in terms of sustainable design, subject to a condition to control the implementation of these measures. This should be controlled through planning condition.
- 5.8.2 An air quality assessment was also submitted with this application, detailing that the results of

emissions from the local highway network due to the proposal would not be significant at any sensitive locations, although construction air quality impacts would need to be mitigated through measures to control dust and reduce potential impacts. Subject to planning conditions mitigating dust emission during construction and the provision of two fast EV charging points within the proposed parking area, the proposal is considered to be acceptable with regards to air quality.

6.0 Obligations

Contribution of £70,000 (seventy thousand pounds) to be paid to the Council, which shall be used by the Council for improvements of the recreational facilities at Highfield Recreation Ground and/or Palatine Recreation Ground in Lancaster.

6.0 Conclusion and Planning Balance

6.1 Development of the site has gone through a number of iterations and decisions, primarily resulting in refusal and dismissal of development. However, the development has evolved over this period and application process to address a number of points of concern and detractor of development of this location. Whilst highways and parking are a contentious matter locally, the design and development has no objection from County Highways, and therefore the proposal is considered to be neutral in this regard. Other matters of drainage, open space, ecology and residential amenity can all be mitigated to ensure no adverse impact and policy compliance, similarly all neutral matters in a planning balance. The design and external materials of the development have improved significantly over the course of this application and history of applications, and is considered to be appropriate to the setting and congruent to the area through a modest and well designed development.

6.2 Whilst a sequential test of alternative sites to direct development to lower flood risk has been provided, the scope and content of this is considered to have failed the sequential test. There is gravity to this matter in policy terms, but it is considered that this should be considered in the context of a proposal is for a less vulnerable use, and a site at medium risk of groundwater is for flooding beneath ground level, with lesser degrees of surface water and groundwater flooding cumulative impacts. As such, even though officers are not satisfied that this is the lower risk site reasonably available for the development in the district, for this use and level of risk it is considered this can only be afforded limited to moderate weight against this proposal for the actual severity and risk of harm to such a proposal at this site. The benefits are primarily social and economic, providing additional services to local residents at a scale appropriate to this local centre, and associated economic benefits during construction and through providing employment and commercial space. As new build additional commercial space for proportionate units over two floors, it is considered that these benefits would be moderate, and would outweigh the failure of the sequential test.

Recommendation

That Planning Permission BE GRANTED subject to the following conditions:

Condition no.	Description	Type
1	Timescale	Control
2	Accord with amended plans	Control
3	Demolition and construction management plan, including hours of construction and demolition	Pre-commencement
4	Land contamination survey	Pre-commencement
5	Surface water drainage scheme	Pre-commencement (except demolition)
6	Details and samples of external materials and boundary treatment	Pre-commencement above ground
7	Landscaping scheme and maintenance	Pre-commencement above ground
8	Details of plant/waste compound boundary	Prior to installation and first use
9	Surface water maintenance and verification	Prior to first use

10	Foul water drainage scheme	Prior to first use
11	Off-site highway works (including yellow lines and bus stop improvements)	Prior to first use
12	Mitigation within ecology assessment	Prior to first use
13	Implement new accesses	Control
14	Implement mitigation in energy report	Control
15	Implement mitigation within noise assessment	Control
16	Implement car and bicycle parking provision, including 4x EV parking spaces	Control
17	Hours of site opening, operations and deliveries	Control
18	Maximum commercial floorspace restriction and units	Control
19	Demolition only prior to imminent commencement	Control

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

Lancaster City Council has made the decision 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 decision 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

Preceding appeal referenced APP/A2335/W/22/3311459