

Agenda Item	A5
Application Number	22/00462/FUL
Proposal	Erection of four new buildings accommodating 30 employment units (E(g) and B8), erection of new car showroom, car wash and valeting buildings, together with construction of new roads, parking, boundary enclosures, landscaping and associated infrastructure
Application site	Mellishaw North Development Site Mellishaw Lane Heaton With Oxcliffe Lancashire
Applicant	Mr Cox
Agent	Tony Hills
Case Officer	Mr Andrew Clement
Departure	
Summary of Recommendation	Approval

1.0 Application Site and Setting

- 1.1 The site relates to an area of mostly undeveloped brownfield land located on the northern side of Mellishaw Lane, within the designated employment site of White Lund Employment Area. The site is accessed from Golf Drive, adjacent to an established car sales business to the west, with newer industrial/employment to the east. The main part of the site is set back from the highway and the overhead high voltage power lines.
- 1.2 A culvert runs through the site, which is within flood zones 3b (functional flood plain), 3a and 2 affecting areas of the site, with smaller areas affected by surface water flooding from 1in30, 1in100 and 1in1000 year risk frequency zones, and areas of high groundwater flood risk with potential for groundwater flooding to occur at surface. The site is within an area benefitting from flood defences, although this does not protect functional floodplain areas, nor risk from surface and groundwater flooding. The site is within the impact risk zone for impact from employment development upon Morecambe Bay Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar site and the Lune Estuary Site of Special Scientific Interest (SSSI). An aspiration cycle route runs along Mellishaw Lane to the south.

2.0 Proposal

- 2.1 This application seeks planning permission for the erection of four new buildings accommodating 30 employment units within Use Class E(g) and B8, the erection of new car showroom, car wash and valeting buildings, together with construction of new access roads, parking, boundary enclosures, landscaping and associated infrastructure. The proposed employment buildings are all two storey height in terms of their appearance, however, most do not have an upper floor, with the ground floor open to the roof. They are all proposed to be finished in light grey and silver cladding, with the lower

section of the wall using a grey reconstituted stone walls, in similar appears to those developed on the adjacent site through permissions 18/00434/FUL and 19/00507/VCN. Car sales and valet building are single storey, finished in grey cladding with glazing to the showroom. A new access road to Golf Drive is proposed from the highway, in addition to parking areas and a pumping station.

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
23/01260/FUL	Erection of 3 new buildings comprising 5 units for employment use (Use Class Eg and B8) and a car showroom (Sui Generis), construction of internal roads, service areas, car parking and associated site works	Withdrawn
18/00434/FUL and 19/00507/VCN	Erection of four buildings comprising a total of 20 industrial units (B1a Office, B1c light industrial, B2 general industrial and B8 storage and distribution), the creation of associated access, internal roads and parking and erection of sub-station	Approved with s106 agreements
18/00139/FUL	Erection of four buildings comprising of a total of 20 units (B1a and B1c use class) with associated access and parking	Withdrawn
16/00439/FUL, 17/01274/NMA and 17/01313/VCN	Erection of a gas fuelled generator plant with associated ancillary buildings and a 2.4 metre high security fence and 4 metre high acoustic fence	Approved
17/00271/FUL	Erection of a two storey building for use as light industrial workshops and offices (B1), display of motor vehicles and associated access and parking	Approved
17/00159/DIS and 17/00057/DIS	Discharge of conditions 3, 4, 5, 6, 7, 8, 9, 10 and 11 on approved application 16/00439/FUL	Split decisions
16/01174/FUL	Creation of a new vehicular access point and access road	Approved
15/01218/FUL	Installation of 2.4m high security fencing and double gates and creation of hardstanding to form a car storage compound	Approved
12/01130/FUL	Alterations, refurbishment and extension of existing motor vehicle dealership to form larger vehicle showroom and new bodyshop	Approved
05/00047/OUT	Outline application for mixed use development incorporating industrial (B1-B8) uses, a DIY retail warehouse with ancillary garden centre, builders yard and associated works	Refused
02/00370/REM	Reserved matters application for construction of new roads, associated drains and services	Approved
00/01050/OUT, 08/00631/VCN and 11/00609/FUL	Outline application for mixed use development incorporating B1, B2 and B8 uses, four motor dealerships and motor accessories store and fast food outlet	Approved
86/00971/HST and 87/00683/HST	Outline application for new premises for new and used car dealership with servicing facilities	Approved

4.0 Consultation Responses

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

Consultee	Response
Heaton with Oxcliffe Parish Council	Support

County Highways	No observation received
Environmental Health	Recommend conditions for EV charging points, CEMP relating to dust mitigation and air quality impacts and mitigation, and a contaminated land planning condition.
Engineering Team	No observation received
GMEU	No observation received
Lead Local Flood Authority	No objection , subject to planning condition for final surface water drainage scheme, construction surface water management plan, maintenance of drainage and verification report
Environment Agency	No objection , satisfied that development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented. Previous uses of the presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. To mitigate, recommend contaminated land assessment and verification, with separators for oil and petrol, and informative regarding dispose and discharge of waste and trade effluent
United Utilities	No objection , subject to no surface water draining to the public sewer and maintenance of drainage scheme
Natural England	No objection , subject to HRA AA mitigation of Production and implementation of a Construction Environment Management Plan (CEMP), implementation of a gas monitoring system and a surface water and foul drainage management scheme.
Fire Safety Officer	No objection , advice notes regarding emergency vehicle access and water provision
Sustainable Growth	No objection , condition for developing, implementing and evaluating an Employment Skills Plan (ESP), with specific reference to the scale of anticipated outputs
Waste and Recycling	No observation received
Planning Policy	No observation received
Dynamo Cycle	Objection , proposal does not encourage cycling to work due to lack of shared use path
Electricity NW	ENWL does have apparatus within the vicinity of proposed works. Informative
Cadent Gas	No objection , informative regarding works in proximity to gas infrastructure and noise

4.2 No observations have been received from members of the public.

5.0 Analysis

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

- Principle of the development and employment;
- Design, scale and landscape impact;
- Flooding, drainage and infrastructure;
- Sustainable transport, highways impacts, parking;
- Air quality, contamination and energy efficiency; and
- Ecology, landscaping and trees.

5.2 **Principle of the development and employment** Development Management (DM) DPD policies DM14 (Proposals involving Employment Land and Premises), DM15 (Small Business Generation) and DM28 (Employment and Skills Plans); Employment and Skills SPD; 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), EC1 (Established Employment Areas) and EC4 (White Lund Employment Area); National Planning Policy Framework (NPPF) Sections 2. (Achieving sustainable development), Section 4. (Decision-making), Section 6. (Building a strong, competitive economy) and Section 11. (Making effective use of land)

5.2.1 The site is located within the allocated employment area of White Lund Industrial Estate. There have been previous consents on the site for employment uses, and some development has recently taken place in relation to internal roads and employment buildings immediately east of the site approved through permission referenced 19/00507/VCN. The proposed development comprises 30 employments units Use Class E(g) and B8. The site is brownfield land allocated for employment use within an employment/industrial area north of Mellishaw Lane, and therefore the principle of the proposed employment uses on this site is considered to be acceptable. This aspect of the proposal

would deliver social and economic benefits, regenerating the brownfield site to provide appropriate employment space within an area that such development, as sought through the local plan allocations for White Lund. To ensure is implemented and remains uses that support the range of employment uses appropriate within this employment area, and to prevent any inappropriate uses that would be contrary to the employment allocation, the use classes should be controlled to those proposed through planning condition, and ensure that car sales area is restricted to that use and area proposed.

- 5.2.2 The proposal includes the development of a new car showroom, car wash and valeting buildings within a reconfigured car sales area. The White Lund Employment area allocation requires non-employment uses to either be ancillary and subject to retail sequential testing within the designated employment area, with the policy text specifically identifying quasi-retail uses and car showrooms as a potential threat to the White Lund Employment area as a whole. SPLA Policy EC4 seeks to restrict the opportunities for retail development (and other non-employment generating uses) within the White Lund Employment Area. Amendments to the proposal have reduced the proposed elements of car sales to the area largely regularised through permission 12/01130/FUL for the existing motor vehicle dealership. As such, the proposal is considered the subdivision of an area largely of the existing vehicle dealership and land already regularised and used for such purpose, altering the existing layout of such land to avoid extending into other usable areas of the employment allocation. Whilst this extends slightly further southwards by several metres compared to the existing car sales area, this maintains a sufficient roadside setback and landscaping area and avoids extending into areas that could feasibly accommodate employment development. Subject to planning conditions controlling the extent of car sales to that proposed within the site and subdividing the existing regularised car sales area, the proposed and partially retrospective car sales and valet developments are considered acceptable, as they do not adversely impact wider employment land or landscaping associated with this.
- 5.2.3 This proposed development meets the threshold for requiring production of an Employment and Skills Plan (ESP). The ESP details how opportunities for, access to and up-skilling local people through the construction phase of the development proposal will be provided. As such, and given mitigation would likely be met during construction phase of the development itself, this should be controlled through pre-commencement planning condition to ensure any consent granted delivers the ESP requirements.
- 5.3 **Design, scale and landscape impact** Development Management (DM) DPD policies DM29 (Key Design Principles) and DM46 (Development and Landscape Impact); National Planning Policy Framework (NPPF) Section 12. (Achieving well-designed places); National Model Design Code (NMDC)
- 5.3.1 The proposed employment buildings are utilitarian in appearance, using practical and low-cost design and materials. The buildings will measure a maximum of circa 9.4 metres tall to the ridge, with shallow pitched roofs to just over 7-metre-tall eaves heights, for buildings measuring up-to 73 metres long by 25 metres deep. Whilst these are large scale buildings, for the employment uses proposed and in the wider context of the industrial estate, the scale and materials proposed, are considered to be appropriate and congruent to the setting, particularly with the tone differences across the elevations and matching the recent adjacent units to the east. The development is setback from the public highway of Mellishaw Lane, and subject to the materials and design being implemented, the proposal will cause no undue harm in this employment area setting.
- 5.3.2 Concerns were raised regarding the car sales building, which was originally homogenous and rectangle with little relief or architectural interest, despite the location closer to Mellishaw Lane. Whilst retaining a similar shape, amendments have introduced more interest through glazing arrangements, parapets to alter front elevation eaves heights, combined with changing cladding colour to emphasise these features and verticality. These amendments are considered to sufficiently and proportionately address design concerns for such development and setting adjacent to existing modular appearance buildings, and will have no adverse impact upon the streetscene through the design, scale and materials proposed. Whilst the car sales area creeps slightly further southwards than the current and regularised areas of car sales, amendments to reduce this are considered sufficient to ensure the area retained for landscaping avoids detrimental visual impact, subject to full details of proposed landscaping and maintenance of this through planning condition.

- 5.4 **Flooding, drainage and infrastructure** 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)
- 5.4.1 The site falls partially within Flood Zones 2 and 3, benefitting from flood defences to part of this area, but a culvert through the site is unprotected and forms a functional flood plain designated as Flood Zone 3b. The culvert also presents areas of high and medium surface water flood risk, with other pockets of low surface water flood risk elsewhere in the site. These flood risks were assessed as part of the Local Plan Strategic Flood Risk Assessment (SFRA) when allocated the site for employment, however over half the site is at high risk of groundwater flooding, which could occur above ground level, which was not fully considered when allocating the site. As this latter risk was not comprehensively assessed within the site allocation, the proposed development in an area vulnerable to flood risk is required to meet the Sequential Test, and to demonstrate the site is not at risk of flooding and would not increase the risk of flooding elsewhere.
- 5.4.2 Whilst the site is allocated for employment use, and undertook a flood risk sequential test as part of this allocation, due to the ground water flood risk impacting the site and incomprehensive assessment of this risk as part of the allocation, the sequential test for flood risk must be undertaken. The sequential test is to be applied to steer development to areas with the lowest risk of flooding from any source. A sequential assessment has been submitted as part of this application to address this matter.
- 5.4.3 The proposal is for major employment development located within an allocated employment area. Given that such development is directed to employment areas of sufficient scale to accommodate such development, looking at alternative sites within these designated employment areas is considered to be suitable for this proposal. Areas not allocated for employment are excluded, and such a scale of employment development would not be policy compliant for development outside an employment area. The application site is considered to be immediately deliverable in terms of timeframe for development, with one building retrospective and others could be brought forwards in the short-term given the planning history of the site. Whilst there are historic permissions covering the whole site, it appears that 12/01130/FUL and 19/00507/VCN are the implemented and extant consents, and were developed relative soon after the grant of consents. Whilst the planning history on-site dates back further, these appear to have expired, as the aforementioned implemented permissions prejudice earlier permissions at the site. The sequential test suggests the earlier 20-year-old permissions are extant and provides a lawful fallback, however this is unsubstantiated and ignores the subsequent implemented permissions that prevent implementation of earlier consents, and there is no lawful development certification to evidence this is the case.
- 5.4.4 For a site to be sequentially preferable to the application site, it would need to have lower risk than those impacting this application site from recognised sources of flood included within the SFRA, namely EA Flood Map for Planning, EA Risk of Flooding from Surface Water and BGS Groundwater Potential Flood Map. The site is also recognised as being entirely within a modelled future flood risk for 2125, factoring in climate change and other factors that may exacerbate flood risk in the future. The submitted sequential test has assessed several allocated employment areas within the district, and particularly planning permissions issued within these allocated area. Whilst the submitted sequential test focuses on the areas of search previously agreed, namely larger allocated employment sites, it does not focus on these comprehensively, looking solely at those with recent planning permissions, rather than the allocations more broadly. Furthermore, it then excludes these sites on assumption of unavailability largely due to these recent permissions, rather than investigated and evidencing their availability for development. Land west of Imperial Road, south of the A683, is a notable omission and a site at lower risk of flooding than the application site.
- 5.4.5 The above assessment does not comprehensively explore all alternatives within the designated employment areas, 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 fact the site was allocated for employment despite knowledge of the high risk of fluvial flood risk when allocating site as part of the local plan, in this case it is considered pragmatic to do so.

- 5.4.6 It is considered that the submission has failed to rule out all other potential sites within the districts designated employment areas at lower risk of flooding than the application site. However, this should be assessed in the context of an employment 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. Furthermore, flood risk within the site has been factored into the proposed development through amended plans, ensuring that only access roads and landscaping areas are within the areas at most risk of flooding along the culvert and southwestern area, with sufficient gap and easement to avoid the functional flood plain and surface water flood risk associated with this culvert. This easement will allow access to the culvert for management and maintenance, and subject to this and other mitigation measures within the submitted flood risk assessment relating to finished floor levels, the proposal reduces the impact of flooding within the site, and drainage schemes can ensure flood risk is not exacerbating elsewhere. The Lead Local Flood Authority and Environment Agency have no objection to the proposal subject to recommended planning conditions.
- 5.4.7 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, which allocated employment sites and an additional 59.6ha of employment land required to meet employment and economic needs in addition to the more established employment allocations such as White Lund. 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.
- 5.4.8 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. The application site has areas of high risk of flooding, both now and in the future. However, given that the site was allocated in knowledge of high risk from at least some, if not all of the identified sources of flood risk, combined with the less harmful impacts of such events upon 'Less Vulnerable' uses such as the proposal, it is considered that this reduces the severity of such impacts, and proportionately reduces the weight of harm attributed in planning balance.
- 5.4.9 Due to the severity of significance placed on the failure of the sequential test within the NPPF and guidance, balanced with the impact of flooding to a 'Less Vulnerable' use within a site allocated for such employment development, 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 moderate harm weighing against this proposal. The 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.

- 5.5 **Sustainable transport, highways impacts, parking** 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), DM63 (Transport Efficiency and Travel Plans) and Appendix E (Car Parking Standards); Strategic Policies and Land Allocations DPD policies SP10 (Improving Transport Connectivity) and T2 (Cycling and Walking Network); National Planning Policy Framework (NPPF) Section 9. (Promoting sustainable transport)
- 5.5.1 The site is accessed from Golf Drive north of Mellishaw Lane, which was constructed circa 2020, and provides suitable access for the proposed development to link into, which then joins the public highway of Mellishaw Lane. The proposed site plan provides suitable 7.3-metre-wide road widths of internal non-adoptable estate roads, with turning heads for larger vehicles and 2-metre-wide pavements to roads across the site. The application details off-site pavements and bus layby to Mellishaw Lane, and whilst these were required through preceding applications, these have yet to be implemented and thus need to be controlled as part of this application to ensure suitable sustainable transport provision to the site through this proposal. This should include traffic calming measures and lighting in this area, similar to the adjacent scheme. Subject to these measures, combined with the implementation and maintenance of the proposed access, parking provision and the submitted travel plan, the proposed site vehicular access and pavement links to Mellishaw Lane are considered to be suitable to ensure highway safety is unharmed through this proposal.
- 5.5.2 Excluding the car sales aspects, the proposal for employment development and associated parking provides 6,100sq.m of office/employment/storage use class within 30 separate units, benefitting from 138 parking spaces adjacent to these units through the proposal. This equates to 1 parking space per 45sq.m of proposed floorspace, slightly beneath the maximum figures for office/employment uses, but in excess of figures for storage use. Given the location of development and unfortunate lack of current convenient public transport access to this area, the proposed parking provision is considered to be appropriate. The parking provision is considered to be suitable to avoid adverse highway impact from unmanaged parking to the public network, whilst not exceeding maximum figures to constitute overprovision to a degree of discouraging other more sustainable transport modes, subject to implementation of the travel plan and other mitigation to improve sustainable transport options through planning condition.
- 5.5.3 The distance from the nearest bus stops justifies the requirement for pavement and bus layby improvements to Mellishaw Lane, and the importance of suitable cycling provision. The proposed secure communal cycle storage and showers at the site is good in terms of quality, but deficient in quantity given the proposed plans suggest this can only accommodate 12 bikes. Given the use and location, some employees and visitors to the site, it is anticipated that secure cycle storage proposed would meet some of this demand, however addition Sheffield stand storage is necessary for shorter visits and in addition the provision proposed. The additional Sheffield stands can be controlled through planning condition, in addition to securing the implementation of the proposed secure storage and showering facilities, these measures will ensure suitable sustainable transport options for the proposal. Whilst it is noted the local cycling campaign group object to the proposal due to a lack of a shared use path to the roundabout to the east, the off-site pavements and cycle storage/showering facilities are considered to be suitable and proportionate to encourage walking and cycling to the proposed development, particularly given the constraints of land ownership and extent/width of highway adoptions along Mellishaw Lane.
- 5.6 **Air quality, contamination and energy efficiency** Development Management DPD policies DM29 (Key Design Principles), DM30 (Sustainable Design), DM31 (Air Quality Management and Pollution), DM32 (Contaminated Land, Strategic Policies) and DM57 (Health and Wellbeing); Strategic Policies and Land Allocations (SPLA) DPD Policy EN9: (Air Quality Management Areas); National Planning Policy Framework (NPPF) Section 8. (Promoting healthy and safe communities) Section 12. (Achieving well-designed and beautiful places) and Section 15. (Conserving and enhancing the natural environment)
- 5.6.1 The submitted air quality assessment anticipates a worst-case impact of development increasing vehicle movements by 3% and HGV movements by 5.6%, depending on the uses occupying the units (office or storage). The proposal includes 18 electric vehicle charging points, which is considered to be a good proportion. Subject to details and charge speed being controlled through

planning condition, this provision is considered to be suitable mitigation for air quality impacts of the proposed use once constructed.

5.6.2 The submitted assessment does not include construction vehicle movements within this, however such assessment and mitigation can be controlled through planning condition.

5.6.3 Given the nature of the site, there is a contaminated land risk from the proposal, and assessment and verification should be controlled through a pre-commencement planning condition, particularly as the one provided primarily relates to the adjacent site, rather than the application site itself.

5.6.4 The submitted energy statement is scant on details, only confirming construction to building regulations, which is a minimum requirement through separate legislation. The suggestion of PV panels to the front roof slopes of proposed employment units is encouraging, although some do not appear to optimally face the direct of the sun. However, it is considered that these matters could be more comprehensively explored to require suitable energy betterments through planning condition, at a time when hopefully the occupants of buildings and construction details will be more progressed.

5.7 **Ecology, landscaping and trees** Development Management (DM) DPD policies DM44 (Protection and Enhancement of Biodiversity) DM45 (Protection of Trees, Hedgerows and Woodland) and DM57 (Health and Wellbeing); 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 River Lune Biological Heritage Site (BHS) and Marine Conservation Zone is located circa 900 metres south of the site, and the River has direct connectivity with the Morecambe Bay European protected site (SPA). Morecambe Bay is very important for many species of birds. As such, there is the potential for development and recreational use close to the designated sites to have impacts on birds associated with the SPA and Ramsar designations. It is considered that these impacts could be avoided, but only through mitigation. In light of the People Over Wind ruling by the Court of Justice of the European Union, likely significant affects cannot be ruled out without mitigation and therefore an Appropriate Assessment (AA) is required.

5.7.2 The majority of the site comprises bare ground and hardstanding, although there are pockets and boundary areas of scrub and culverts. Whilst land to the south beyond the site is understood to be used by overwintering pinkfooted geese, given the adjacent site activity and intervening electricity and Mellishaw Lane traffic, it is considered that the proposal does not form nor directly adversely impact functionally linked land. With implementation of an approved CEMP during the construction phase, gas monitoring, EV charging points and the surface water and foul drainage systems, it is considered the proposed development will have no adverse effects on the integrity of the designated sites, as concluded in a separate Habitats Regulation Assessment and Environmental Impact Assessment, subject to mitigative measures controlled through planning conditions.

5.7.3 New roosting provision for crevice dwelling bats should be incorporated into the buildings through proposed bat boxes, and this and other mitigative measures within the submitted ecology assessment should be controlled through planning conditions. Whilst lacking formal assessment within the submission, the existing trees within the site are away from the development areas and largely within the proposed landscaping areas and southern boundary to Mellishaw Lane beyond the development area. Given the category of trees and limited impact upon the streetscene, the assessment and protection of existing trees can be controlled through planning condition, with any removals mitigated through proposed landscaping through planning conditions. The Environment Agency have no objection to the proposal, subject to planning conditions including a scheme for installation of oil and petrol separators to avoid pollution of aquifers. Subject to these measures and details of landscaping and its long-term maintenance, the impacts upon ecology and biodiversity are considered to be acceptable.

6.0 Conclusion and Planning Balance

6.1 The proposed development accords with the allocation for the wider White Lund Employment area allocation, and seeking to make best use of this allocated site through proportionate development of brownfield (previously developed) land. The development and use of such land for identified needs, in this case employment, is given substantial weight in national planning policy terms. Development

of such sites is considered to make best use of land in need of regeneration, and directing development to such areas as opposed to greenfield sites is undoubtedly beneficial. Given the scale of employment development and the substantial weight attributed to development of brownfield sites, the economic and social benefits of the employment development during construction and through providing suitable space for employment uses and businesses are considered to be significant benefits.

- 6.2 The site is allocated for employment development, and car showrooms are specifically mentioned as a threat to this White Lund employment designation, which forms part of this proposal. Given the very modest extended car sales area through the proposal, which is largely a subdivision of the existing area approved and currently used as such, combined with the avoidance of undue harm to landscaped area and land that could be feasibly used for employment, the car sales and valet aspect of the development results in limited harm.
- 6.3 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. However, given the site allocation in the local plan despite known flood risk from most (if not all) sources, combined with the less vulnerable use proposed, it is considered that failure of the sequential test and directing to areas of lower flood risk should be attributed moderate weight against this proposal, despite the high risks from multiple sources of flooding. The Environment Agency and Lead Local Flood Authority are content with the mitigation and measures to reduce the flood risk impacts within the site and elsewhere. Whilst this does not overcome the failure to direct to land at lowest flood risk, it is a factor in attributing moderate harm to this matter.
- 6.4 The material considerations of highways impact, design, energy, drainage, air quality, contamination, ecology and landscaping can all be mitigated to ensure no adverse impact and policy compliance. As such, these are all neutral matters in a planning balance subject to planning conditions to ensure impacts are addressed. Whilst the site is unfortunately unideal in terms of proximity to current walking, cycling and public transport provision, this can be mitigated through off-site layby and pavement improvement works to the public highway, and cycle parking/showering facilities on-site, again to be detailed through planning conditions and implemented prior to first use/occupation of the development. Subject to these and other measures, the significant social and economic benefits of additional employment development on brownfield land allocated for such development are considered to outweigh the cumulative harm from failure of the flood risk sequential test (moderate) and subdivision and slight expansion of car sales activities through the proposal (limited).

Recommendation

That Planning Permission BE GRANTED subject to the following conditions:

Condition no.	Description	Type
1	Timescale	Control
2	Accord with amended plans and external materials	Control
3	Contaminated land assessment and verification	Prior to commencement
4	Petrol and oil separators	Prior to commencement
5	Gas monitoring system	Prior to commencement
6	Construction Environment Management Plan (CEMP)	Prior to commencement
7	Construction air quality assessment and mitigation	Prior to commencement
8	Employment Skills Plan (ESP)	Prior to commencement
9	Tree impact assessment and protection measures	Prior to commencement
10	Surface Water Sustainable Drainage Strategy	Prior to commencement
11	Construction Surface Water Management Plan	Prior to commencement
12	Foul drainage scheme	Prior to commencement
13	Energy Statement	Prior to commencement above ground
14	EV charging points	Prior to installation or occupation
15	Cycle parking/showering/storage provision	Prior to installation or

		occupation
16	Off-site highway improvements (including pavements and bus layby)	Prior to installation or occupation
17	Implement roads and parking provision, maintain for this use	Prior to occupation
18	Sustainable Drainage System Operation and Maintenance	Prior to occupation
19	Verification Report of Constructed Sustainable Drainage System	Prior to occupation
20	Landscaping plan and maintenance	First planting season following completion/first occupation
21	Travel plan implementation	Within 6 months of first occupation
22	Implementation of ecological mitigation	Control
23	Flood risk mitigation	Control
24	Control extent of car sales area	Control
25	Use Class restriction E(g) and B8 only, and car sales for such use only within specific area only	Control

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

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 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