

Agenda Item	A6
Application Number	23/01233/FUL
Proposal	Erection of two industrial buildings (Use Class B2/B8) comprising 14 individual units, including associated access, parking, landscaping and ball stop fencing
Application site	Land At OS Grid Reference E346160 N461400 Port Royal Avenue Lune Business Park Lancaster Lancashire
Applicant	Mr Craig Sneddon – Derwent Lodge Estates Limited
Agent	Mr Jack Appleton – Broadgrove Planning & Development
Case Officer	Mr Robert Clarke
Departure	Yes
Summary of Recommendation	Approval – Delegate back to Head of Service for finalisation of planning obligation.

1.0 Application Site and Setting

- 1.1 The application site comprises a parcel of undeveloped land located within the southeastern corner of the Lune Industrial Estate. The site adjoins existing industrial uses to the north and northeast. To the east are football pitches, and to the south and west are woodland and recreational areas which form the Freeman's Wood and Willow Lane Grounds. The site has an approximate area of 6996.5m² and presently consists of unmanaged scrub type habitat with numerous trees and groups of trees as well as an area of hardstanding in the northern area. Palisade security fencing encloses some of the boundaries of the site.
- 1.2 The majority of the development site is located within the Lune Industrial Estate development opportunity site (DOS2). A small area of land in the northwestern corner of the site extends into the Willow Lane Grounds Amenity Greenspace (AGS) designated open space and the Land at Willow Lane development opportunity site (DOS3). The wooded land to the south of the site also forms part of the Freeman's Wood Natural/Semi Natural Greenspace (NSN) designated open space. The football pitches located to the east are identified as Willow Lane grass pitches designated open spaces. The site is located within the Luneside Regeneration Priority Area (Site EC5.4). Trees within the adjoining land to the south and west are protected by Tree Protection Order 496(2011), this does not include trees within the development site. A public right of way extends along the southern boundary of the site, though remains outside the development site. Both Port Royal Avenue and Europa Way are unadopted privately maintained roads. The site forms part of an historic landfill site. Part of the site is located within a high-risk groundwater flooding area; the remaining part of the site falls within a medium risk groundwater flooding area. The site falls within a SSSI impact risk zone

associated with the Lune Estuary SSSI. The Lune Estuary, which is located approximately 800 metres to the west also forms part of a Marine Conservation Zone, Ramsar site, a Special Area of Conservation (SAC) and a Special Protection Area (SPA). A United Utilities high pressure rising main sewer crosses the southeastern end of the site.

2.0 Proposal

2.1 This application seeks planning permission for the erection of two industrial buildings falling within use classes B2 and B8. Block A is the larger building and measures 80.2 metres in length, 18.8 metres in width and with a height of 6 metres to the ridge. Block A would consist of a total of 9 individual units, each containing a mezzanine level within. Block B is located towards the northern end of the site and measures 39.1 metres in length, 18.8 metres in width and 6 metres to the ridge. Block B would consist of 4 units, each containing a mezzanine level within. The proposal also includes the creation of accesses from both Port Royale Avenue and Europa Way, along with internal access road, parking bays and a turning head. The proposal also includes boundary treatments including 7.5 metre tall and 5.5 metre tall ball stop fencing to be located along the southeastern boundary adjacent to the football pitches.

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
23/01306/EIR	Screening opinion for the erection of two industrial buildings (Use Class B2/B8) containing 14 individual units, including associated access, parking and landscaping	Not EIA development

4.0 Consultation Responses

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

Consultee	Response
County Highways	No objection subject to conditions requiring the agreement of a Construction Management Plan, agreement of a Service Management Plan, and provision of approved access points, parking/turning facilities and cycle storage facilities.
Natural England	Considers that the proposed development will not have likely significant effects on the Morecambe Bay and Duddon Estuary SPA, Morecambe Bay SAC and Morecambe Bay Ramsar and has no objection to the proposed development in this respect. However, comments are made regarding the need for assessment for the presence of peat and the potential impact of development upon peat, if present.
Lead Local Flood Authority	No objection subject to conditions requiring final surface water drainage details, construction phase surface water drainage details, drainage system operation and maintenance details and drainage verification report.
Sport England	No objection subject to conditions requiring the installation of ball strike netting and details of maintenance arrangements.
Environmental Health Officer	No objection subject to conditions regarding contaminated land assessment, electric vehicle charging infrastructure, measures for dust control, control of noise and control on hours of construction.

United Utilities	No objection subject to conditions to secure final foul and surface water drainage details and for a scheme to ensure the protection of the rising main within the site.
Arboricultural Officer	Objection requests the retention of a greater number of trees along the edges of the site and highlights that Biodiversity Net Gain is not provided.
Fire Safety Officer	Provides guidance regarding building regulation requirements.
Cadent Gas	No objection, advice note requested regarding the present of gas infrastructure near the site.
Regeneration & Development Officer	The submitted Employment Skills Plan provides a positive commitment to deliver construction skills and training but does not meet the formal policy requirements.

4.2 1 letter of objection and 1 letter neither objecting nor supporting the development have been received from members of the public raising the following comments:

- Expansion of business and employment provision is welcomed

Concerns raised regarding:

- Impact of noise and disturbance from transport activity on surrounding roads and from within the development site
- Parking of vehicles along Port Royale Avenue and subsequent impacts upon residents of Forest Park
- Poplar trees located along Port Royale Avenue show signs of decline and potential loss of screening
- Increased vehicle trips to the site and poor road condition within the industrial estate
- Visual impact of the industrial units
- Development should incorporate opportunities for renewable energy generation and rainwater harvesting
- Foul drainage systems are inadequate
- Impacts upon wildlife

5.0 Analysis

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

- Principle of development
- Highway and transport matters
- Flood risk and drainage
- Residential amenity and pollution
- Biodiversity
- Open space
- Design
- Employment Skills Plan

5.2 **Principle of Development** National Planning Policy Framework: Section 2. Achieving sustainable development, Section 4. Decision-making, Section 6. Building a strong, competitive economy; Strategic Policies and Land Allocations DPD Policies: SP1: Presumption in Favour of Sustainable Development, SP2: Lancaster District Settlement Hierarchy, SP3: Development Strategy for Lancaster District, SP4: Priorities for Sustainable Economic Growth, EC5: Regeneration Priority Areas, DOS2: Lune Industrial Estate, Luneside, Lancaster; Review of the Development Management DPD Policies: DM14: Proposals Involving Employment and Premises and DM15: Small Business Generation.

5.2.1 The application site lies within the settlement boundary of Lancaster, which is identified in the Strategic Policies and Land Allocations DPD (SPLA DPD) as a regional centre within the settlement hierarchy. The SPLA DPD also sets out the development strategy for the district, and promotes an

urban-focussed strategy, directing future growth and development towards the main urban areas of Lancaster, Morecambe, Heysham and Carnforth. One of the fundamental aims is to promote development in sustainable locations. The proposed development aligns with the Council's spatial strategy and the strategic objective S01 contained within the SPLA DPD to *deliver a thriving local economy that fosters investment and growth and supports the opportunities to deliver economic potential of the District.*

5.2.2 Lune Industrial Estate is covered by Policy DOS2 of the SPLA DPD as a development opportunity site. The purpose of development opportunity sites is to provide a more flexible planning framework to assist in the regeneration of particularly challenging sites within the district. With regard to potential uses for this site, Policy DOS2 sets out support for a mixed-use regeneration of the site to include residential, employment and economic uses. It also sets out that any proposals should come forward in a comprehensive manner which include all elements of the whole site. This has in part been achieved through previous planning permission 20/01145/FUL (and subsequent follow-on permissions) which granted consent for a wider redevelopment proposal immediately to the north of the current application site for a combination of economic uses, including the creation of new B2 / B8 units and a range of Class E commercial uses. This planning application relates to a smaller parcel of land in the southern area of the DOS2 allocation and adjacent the larger development scheme permitted through 20/01145/FUL. This application also seeks planning permission for economic and employment uses falling within Use Classes B2 (general industrial) and B8 (storage and distribution). Considering the aims and objectives of the site allocation, the principle of delivering such uses on this site is consistent with the direction of Policy DOS2 and the objectives of the Regeneration Priority Area set out in Policy EC5, and can be supported.

5.3 **Highway and transport matters** National Planning Policy Framework: Section 9. Promoting Sustainable Transport and Section 12. Achieving well-design places; Strategic Policies and Land Allocations DPD Policies: SP10 Improving Transport Connectivity, EC5: Regeneration Priority Areas, and T2: Cycling and Walking Network; Review of the Development Management DPD Policies: DM29: Key Design Principles, DM60: Enhancing Accessibility and Transport Linkages, DM61: Walking and Cycling, DM62: Vehicle Parking Provision, and DM63: Transport Efficiency and Travel Plans.

5.3.1 The application has been supported by a Transport Statement to demonstrate the development can be safely accessed, that there are a range of sustainable transport options available to serve the site and that the traffic impacts can be safely accommodated on both the local and strategic road network without causing any severe impacts. The development site is proposing to use two accesses when serving the site in order to create a through route through the development site. One of the accesses is located off Europa Way while the other is located off Port Royal Avenue. Both of these roads are unadopted and subject to a 20mph speed limit. The access served off Europa Way will be a minimum of 6.7m wide and a 2m wide pedestrian footway will be provided in order to link the development to the wider redevelopment taking place on Lune Business Park. The submitted Swept Path Analysis drawings also shows that the access from Europa Way is safe and suitable to cater for large vehicle movements, such as from an articulated vehicle. The Local Highways Authority (LHA) has confirmed that they raise no concerns with this proposed access arrangement. The LHA has also confirmed that they raise no concerns with the proposed access arrangement taken from Port Royal Avenue. This is considered to be of adequate width and, taking into account the proposed vehicular through access and internal turning arrangements, is satisfactory overall.

5.3.2 With respect to trip generation arising from the proposal, the supporting Transport Statement includes TRICs assessment to predict the approximate level of trips the proposed development could generate during peak times. This assessment concludes that proposals are expected to generate 9 and 8 two-way vehicle movements in the AM and PM peak hours respectively. The LHA has reviewed the development independently and has confirmed that their trip rates differed from those detailed within the Transport Statement. The LHA found that the site could generate 15 (AM) and 13 (PM) two-way vehicular movements during peak hours, a slight increase relative to those detailed within the Transport Statement. Despite this difference, the LHA has confirmed that the development is still unlikely to have a significant material impact upon traffic conditions on the local highway network, and are therefore satisfied with the proposal in this respect.

5.3.3 Turning to the carriageway and internal servicing arrangement within the development site itself, the proposal includes an internal carriageway that will be a minimum of 6 metres wide for the full duration

of the carriageways length, this is welcomed by the LHA. The swept path analysis provided also confirms that an articulated vehicle can safely use the internal carriageway and can also use the provided servicing and turning area provided in between both building blocks to safely exit the site in a forward gear. The LHA has highlighted that the proposal only provides one turning and servicing area for each of the 14 industrial units. For this reason, the LHA requests a condition to secure agreement of a Service Management Plan in order to control the frequency of deliveries, the type of vehicles that will service each individual unit and how each unit will work collaboratively with each other to ensure that deliveries do not occur simultaneously. To control the development through condition in this manner is considered to be overly restrictive and unreasonable. Furthermore, given the scale of the development overall including the number of smaller individual units, the Local Planning Authority would not be in a position to successfully monitor and enforce such a condition in perpetuity. For this reason, this condition would not be recommended. The LHA has confirmed that if this condition is not imposed, they conclude that the proposal would not have a detrimental impact upon the local highway network and would not give rise to a highway safety concern. For this reason, the LHA would not object on this basis.

5.3.4 The LHA are correct in so far that there is only one turning and servicing area which an articulated lorry can utilise. However, there are also a series of smaller turning and service areas located directly in front of both building blocks which have lengths of 8.3 metres to 8.5 metres and would provide service facilities for larger vans to access directly the individual units. Moreover, given the development incorporates an internal through route, should the larger turning/servicing area be occupied, other articulated vehicles don't need to be able to turn around within this space to leave the site. Finally, the units themselves are of a smaller scale and would be more suited to smaller scale business of business start-ups which are reasonably likely to have a lower frequency of visits from larger articulated vehicles. For this reason, it is considered that the inclusion of only one turning and servicing area which an articulated lorry can utilise is acceptable.

5.3.5 With respect to parking arrangements, the development includes the provision of 68 car parking spaces in total, including 12 accessible spaces, and 12 electric vehicle charging bays. The LHA has confirmed that they consider the parking provision to be acceptable in this case, particularly as they consider the development would not overspill or impact upon the operation of the adopted highway. Furthermore, the site is located within an accessible location with good links to bus stops with regular services and cycle and pedestrian connections. The development will also provide a 12-bay cycle storage facility within the site.

5.3.6 Overall, the proposed access, servicing and parking arrangements are considered to be acceptable. Conditions are recommended to secure the full implementation of the access arrangements, to secure final details of the pedestrian facilities and their subsequent implementation, to secure the full implementation of the parking and turning facilities, and to secure final details of the cycle storage and electric vehicle charging facilities and their subsequent installation. Finally, a condition to secure agreement and implementation of a Construction Management Plan is also recommended to satisfactorily mitigate the impacts of the construction phase of the development.

5.4 **Flood risk and drainage** National Planning Policy Framework: Section 14. Meeting the challenge of climate change, flooding and coastal change; Strategic Policies and Land Allocations DPD Policies: SP8: Protecting the Natural Environment; Review of the Development Management DPD Policies: DM30: Sustainable Design, DM33: Development and Flood Risk, DM34: Surface Water Runoff and Sustainable Drainage, DM35: Water Supply and Wastewater, and DM36: Protecting Water Resources and Infrastructure.

5.4.1 Strategic policy seeks to ensure new growth within the district is located in the areas at least risk of flooding, following a sequential approach, and does not create new or exacerbate existing flooding and aims to reduce flood risk overall. The NPPF and DM DPD policies require development to be in areas at least risk of flooding (following the sequential and exception tests) and for major proposals to ensure surface water is managed in a sustainable way accounting for climate change.

5.4.2 Having regard to the most up to date data, the application site is located within flood zone 1 (low probability of flooding from river or the sea). However, according to the Councils Strategic Flood Risk Assessment (SFRA), the majority of the site is identified as being at high risk of groundwater flooding, the remaining areas are identified as being at medium risk of groundwater flooding. With respect to future flood risk, it appears as though the peripheral areas of the development may be at

risk of flood risk in the future according to the Lune Tidal Modelled Outlines data contained within the SFRA.

5.4.3 With respect to groundwater flood risk, the supporting flood risk assessment sets out that to assess site specific flood risk from groundwater, six rounds of groundwater monitoring were completed within three boreholes within the site. The findings were that only BH1 identified any groundwater, and this was located at 5.5 metres below ground level. The assessment ultimately concludes that the risk from groundwater flooding would be low based on this site level investigation.

5.4.4 However, based on the flood risk identified within the Councils SFRA, the flood risk sequential must be considered. Planning Practice Guidance (PPG) details that the aim of the sequential approach includes application of the sequential test, which is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding. The strategic flood risk assessment (SFRA) shows all sources of flood risk, now and in the future, and should be used in the application of the sequential test.

5.4.5 In light of the location of the development within the Lune Industrial Estate Development Opportunity Site allocation and also within the Luneside Regeneration Priority Area, it is reasonable and acceptable to narrow the scope for the area of search to sites which are reasonably available sites appropriate for the proposed development which are located within the allocated Regeneration Priority Area and Development Opportunity Site allocation. Upon review of the extent of groundwater flood risk within these designations, it becomes clear that almost all of the designated area is at high risk of groundwater flooding. There are pockets of land that have a low risk of groundwater flooding, however, these are located immediately adjacent to the River Lune and fall within current fluvial flood zones 2 or 3, and so are in fact at a greater risk in flood risk terms. Furthermore, with respect to future flood risk, according to the Lune Tidal Modelled Outlines data contained within the SFRA, it is only the central area within the application site itself which is not identified as being at flood risk in the future. Accordingly, Officers are satisfied that the need to investigate the availability of any alternative sites is not required as, following assessment of the various sources of flood risk, the application site is clearly at lower risk of flooding than other areas within the wider Development Opportunity Site allocation and also within the Luneside Regeneration Priority Area. On this basis, the sequential test is passed in accordance with Paragraph 168 of the NPPF and Policy DM33.

5.4.6 The flood risk exception test is not required as the proposed development is considered 'less vulnerable' in accordance with the criteria set out within the NPPG. Nevertheless, the development must not be a risk of flooding or cause flooding elsewhere, as per the requirements of DM33 and paragraphs 173 of the NPPF. The submitted FRA has considered the residual flood risks on site taking into account the impacts of climate change, to ensure the development is safe for its lifetime. The development does not avoid medium to high-risk areas of flooding (groundwater) within the site, but given the sites designation for employment regeneration, the nature of the proposed uses (less vulnerable in flood risk terms), the site layout and the proposed mitigation (set out below), the development is considered acceptable.

5.4.7 The proposed mitigation comprises the following measures:

- Existing flood defences protect the site, the assessment has determined that the finished floor level of the new units will be located above the 1.0% AEP (1 in 100 year) event level plus a 35% increase in climate change and 0.1% AEP (1 in 1000 year) during the residual risk breach event.
- The lower lying access road would be at risk of flooding for such an event. However, advanced warning of flood level rising would enable the occupants to leave the site, or to seek refuge on higher ground to the southeast or to remain within the buildings themselves which would be unaffected.

A condition to ensure that the development is undertaken in accordance with the Flood Risk Assessment is recommended.

5.4.8 Regarding the drainage proposals, the application is supported by an outline drainage strategy, this sets out that the drainage scheme shall incorporate a range of techniques that aim to mimic the way rainfall drains in natural systems. Their purpose is to minimise the impact of urban development on

the water environment, reduce flood risk and to improve water quality. In accordance with the NPPF, SuDS will be specified where possible to manage surface water. This in turn reduces the burden downstream on both watercourses and sewerage systems. The outline drainage strategy sets out a framework SuDS strategy to be developed and demonstrates that surface water runoff can be managed satisfactorily with potential permeable paving and on-site storage with an outfall restricted to greenfield runoff rates to the surface water drainage network that ultimately outfalls to the River Lune. This will also include pollution control devices as appropriate. The Lead Local Flood Authority (LLFA) has reviewed this proposal and has confirmed that they are satisfied with this drainage approach. Accordingly, the conditions requested by the LLFA to secure the final surface water drainage details, construction phase surface water drainage details, drainage system operation and maintenance details and drainage verification report can be recommended.

- 5.4.9 Foul drainage shall connect to the existing system which passes through the southern area of the development site. United Utilities have reviewed the development and have confirmed that they have no objection to the proposal subject to a condition to secure final foul drainage details, which is recommended. Moreover, in light of the presence of the United Utilities rising main within the southern area of the development site and the proximity of development to this piece of infrastructure, United Utilities have requested a planning condition to secure a methodology to ensure the protection of this asset from potential impacts of construction activities and post completion. This is reasonable in light of the relationship of the development to this rising main, the condition is therefore recommended.
- 5.4.10 Subject to the identified conditions, the proposal has demonstrated the site is capable of being drained without increase the risk of flooding on site or elsewhere. This is considered compliant with the NPPF and Policies DM33, DM34 and DM35 of the Review of the DM DPD.
- 5.5 **Residential amenity and pollution** National Planning Policy Framework: Section 8. Promoting healthy and safe communities, Section 11. Making effective use of land, Section 12. Achieving well-designed and beautiful places and Section 15. Conserving and enhancing the natural environment; Strategic Policies and Land Allocations DPD Policies: EN9: Air Quality Management Areas; Review of the Development Management DPD Policies: DM29: Key Design Principles, DM30: Sustainable Design, DM31: Air Quality Management and Pollution, DM32: Contaminated Land and DM57: Health and Wellbeing.
- 5.5.1 The application site is located on a development opportunity site in a location where economic and employment development is both anticipated and encouraged. Paragraph 191 of the NPPF requires planning policy and decisions to ensure new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment. To achieve this, it is necessary to avoid noise impacts giving rise to significant adverse effects and to mitigate and reduce potential adverse effects resulting from noise from new development. Policy DM29 of the DM DPD and paragraph 135 of the NPPF is also relevant in the context of assessing the effects of development on residential amenity. Both strongly advocate the need for new development to be of a high standard of design ensuring high standards of amenity are maintained and secured for existing and future users. Policy DM29 specifically states that new development must ensure there is no significant detrimental impact to amenity in relation to overshadowing, visual amenity, privacy, overlooking, massing and pollution.
- 5.5.2 The planning application is accompanied by a noise assessment which considers the impact of the development proposal upon the most sensitive receptors. The nearest residential properties located to the development are those located on Forest Park approximately 100 metres to the northeast. The noise assessment submitted establishes that during both the daytime and night-time periods, noise from the development should not result in any adverse impacts at the receptor locations and therefore no further means of mitigation is deemed necessary. Points for further clarification were requested by the Councils Environmental Health Officer specifically regarding the use of external plant/servicing equipment, cumulative impact of the operation of 14 individual units, and the impacts of road surfacing and traffic derived noise. These points have since been addressed to the satisfaction of the Environmental Health Officer. With respect to the matter regarding road surfacing and traffic derived noise, the section of Port Royale Avenue which passes to the rear of Forest Park is in a good state of repair, whilst the traffic levels generated by the development would not result in a significant increase in traffic (as established by the trip generation data already discussed) when set against the activities already established within the industrial estate.

- 5.5.3 A condition has been requested by the Environmental Health Officer to limit noise associated with plant and servicing machinery and equipment. However, the requirements of the condition are vague and would not meet the relevant tests for imposing planning conditions. No details of any plant and servicing machinery and equipment are provided as part of this application, and new external plant and servicing machinery and equipment may require planning permission in its own right. The effect of plant and machinery is not incorporated into the submitted noise assessment, as this is dependent upon the individual needs of each unit occupier. Therefore, a condition can be imposed to ensure that the rating noise level of any individual external plant element to be installed in the future does not exceed the measured background noise level of 34dB LA90,1h during the daytime, and 32dB LA90,15m during the night-time period at the nearest noise sensitive receptor locations. This requirement it also recommended within the supporting Noise Assessment itself.
- 5.5.4 By reason of the separation distances, intervening development and existing boundary treatments and screening, the development proposed will not result in an overbearing form of development nor impact existing levels of daylight. For this reason, the proposal will not harm the existing standards of residential amenity that neighbouring residents currently enjoy in this regard.
- 5.5.5 The application is supported by a Phase I Preliminary Risk Assessment which sets out the need for further intrusive investigation works to be undertaken to determine the extent of the identified environmental risks and to provide information of the ground for geotechnical properties. This can be covered by a suitably worded planning condition. The conditions requested by the Environmental Health Officer regarding EV charging facilities and dust control measures would be addressed by conditions already highlighted within this report. The condition to control hours of construction is also requested given the proximity of development to the residential properties on Forest Park, the possible need to access the site via Port Royale Avenue and the increased traffic generation expected during the construction phases of such a development.
- 5.5.6 Finally, the application is accompanied by an Air Quality assessment, this concludes that the proposed development itself will not have a significant impact on local air quality. However, in order to mitigate the impacts of the construction phase of the development, mitigation measures as highlighted within table 4 of the Assessment are identified in order to minimise impacts from dust and particular emissions. The implementation of the mitigation measures highlighted within this assessment can be secured by condition.
- 5.6 **Biodiversity** National Planning Policy Framework: Section 15. Conserving and enhancing the natural environment; Strategic Policies and Land Allocations DPD Policies: SP8: Protecting the Natural Environment, EN7: Environmentally Important Areas; Review of the Development Management DPD Policies: DM29: Key Design Principles, DM44: The Protection and Enhancement of Biodiversity and DM45: Protection of Trees, Hedgerows and Woodland.
- 5.6.1 Policy DM44 states development proposals should protect and enhance biodiversity and wherever possible provide net gains in biodiversity. The policy goes on to state where harm cannot be avoided, a development must demonstrate that the negative effects of a proposal can be mitigated, or, as a last resort, compensated for. This is consistent with the NPPF (paragraph 180) which indicates planning decisions should minimise impacts on and provide net gains for biodiversity, including establishing coherent ecological networks. Paragraph 186 of the NPPF requires decision-makers to follow several principles to safeguard biodiversity. This includes a requirement to refuse planning permission where significant harm to biodiversity is identified which cannot be avoided, mitigated, or compensated for and where development results in the loss or deterioration of irreplaceable habitats (such as ancient woodland), unless there are wholly exceptional reasons.
- 5.6.2 Inevitably the proposed development will involve the loss of most of the existing habitats across the site. These habitats have naturally regenerated since the site ceased to be used as a landfill. The site presents a variety of habitats including scrub and grassland habitats and numerous trees, this is often the case on previously developed land that has been left unmanaged. The supporting Ecological Survey and Assessment sets out that the habitat and species identified within the site are considered to be common and widespread and that none of the habitats were considered to be representative of semi-natural habitat. Furthermore, no Priority Habitats are present within the site. In terms of each habitat's importance, the tree lines, scrub and unmanaged grassland are considered to be of 'site' importance. The submitted Biodiversity Net Gain (BNG) assessment

indicates the sites baseline condition and after incorporating the landscape proposals, calculates that the development will result in a total loss of 1.43 habitat units (60.49%) and 0.31 hedgerow units (74.39%).

- 5.6.3 Given when the application was submitted, mandatory BNG is not applicable to this proposal. Nevertheless, during the determination of this planning application, the applicant has actively been looking to minimise impacts through a redesign of the site layout to minimise impacts and establish enhancement of retained areas where possible. Ultimately, it is simply not possible to develop this site for economic and employment uses in the manner proposed and achieve an on-site net gain. Accordingly, the applicant has investigated the possibility of securing a suitable off-site proposal to compensate for the biodiversity losses to accord with policy DM44 and the NPPF. This has involved investigation of alternative sites, however, whilst this option was considered it is noted that the applicant does not own any suitable alternative sites and there are no other registered sites within the Lancaster City Council district on which a scheme could be delivered. Given the time taken already to try and secure net gains in biodiversity, the applicant understandably wishes the proposal to be determined as it stands, which would result in the identified net losses in biodiversity.
- 5.6.4 Policy DM44 states proposals **should** [our emphasis], as a principle, provide net gains in biodiversity assets **wherever possible** [our emphasis]. This is consistent with paragraph 180 of the NPPF. It does not state development must provide net gains. Of course, protecting and enhancing the natural environment is a key component of delivering sustainable development, but given the sites policy designations for economic and employment development, the proposed landscaping scheme coupled with the benefits of associated future maintenance and management, and the efforts the applicant has gone to try and secure net gains, it is considered that any conflict with policy DM44 is limited and satisfactorily outweighed by the benefits that the scheme entails, particularly in terms of economic and employment opportunities.
- 5.6.5 With respect to protected and or priority species, the assessment sets out that 1 tree within the site has a low suitability for use by roosting bats, therefore specific mitigation measures for the removal of this tree are identified and can form the subject of a planning condition. The habitat within the wider site is also suitable for foraging bat species therefore further mitigation measures for the protection of bats are also included. The site also supports habitats suitable for use by nesting birds and foraging and sheltering hedgehog; accordingly, mitigation measures for the protection of these species are also recommended and can be secured by condition. No other protected species were identified. Finally, enhancement opportunities for wildlife are also identified, and potential measures such as bat boxes, suitable lighting design, nesting bird boxes and habitat interconnectivity measures particularly for hedgehog are detailed within the report. A condition to secure final details of such habitat enhancement measures is recommended. Finally, both Japanese Knotweed and Montbretia, both invasive plant species are present within the site. Guidance on the control and management of these species is provided and an invasive species management plan can form the subject of a planning condition.
- 5.6.6 Policy DM45 states new development should positively incorporate existing trees and hedgerows. Where this cannot be achieved the applicant must justify this as part of an Arboricultural Impact Assessment (AIA) and should incorporate replacement planting. The application is supported by an AIA, this sets out that the development would result in the loss of some moderate and low-quality trees, these being tree groups G1 (goat willow and ash), G2 (goat willow, hawthorn and sycamore), G3 (goat willow) and A1 (ash, goat willow, sycamore, apple, hawthorn) and which are all C category tree groups, 5 trees from the northwestern section of tree group G4, which is a B category tree group and individual trees T1 and T2, both of which are sycamore and are C category trees. The southeastern section of tree group G4 and the off-site tree group G5 (C category) which is protected by Tree Protection Order 496(2011) are to be retained and protected within the development proposal, details of the protection measures are included within the AIA and can be conditioned. Tree groups G4 and G5 will require pruning works in order to facilitate the development. G4 requires pruning on the northwest side to obtain 3m ground clearance, on southeast side to enable the erection of a 7.5 metre high Ball Stop Net and on northeast side to enable the erection of a 1.8m high boundary fence. G5 will require pruning on the northeast side to obtain 3m ground clearance over site the development site. Both groups will require ongoing management which would amount to no more than routine arboricultural maintenance.

- 5.6.7 The Council Arboricultural Officer considers that a greater number of trees along the edges of the site should be retained, including all of G4 and increasing the buffer between development and G5. The 6 metre buffer proposed between the two buildings and the periphery of the off-site trees which form G5 accords with the pre-application advice which the Council has previously provided for the development of this site. It is also the same size as the buffer incorporated into the wider redevelopment permitted through application 20/01145/FUL to the north. The layout of the site including the 6 metre buffer provided within the development is considered to be acceptable.
- 5.6.8 There is clearly a degree of conflict between the development and existing trees, and this conflict must be weighed appropriately in the planning balance. Given the site falls within an allocation earmarked for economic and employment development, and that the importance of the existing trees is largely a consequence of the unmanaged nature and natural regeneration of the application site, the weight to be afforded to this conflict is moderate. In incorporating the site into the identified policy designations, the site was clearly anticipated for employment development by the Council. To mitigate the loss of the identified trees, the landscaping proposals for the site include the planting of 16 new trees including silver birch, maple, rowan, and crab apple, as well as a new length of native hedgerow and areas of native shrubs. In the context of the sites policy allocation and the provision of replacement landscaping to mitigate the identified losses, the development is acceptable. A condition to agree final landscaping and maintenance details is recommended as recent minor layout changes are not incorporated in the currently submitted landscape proposals.
- 5.6.9 In light of the proximity of the development site to the sensitive ecological designations which seek to protect the estuarine environment of the Lune Estuary as well as the wider Morecambe Bay ecosystem, the application is supported by a Shadow Habitat Regulations Assessment. This concludes that the proposed development at the site will have no adverse effect on the integrity and conservation objectives of the relevant identified European designated sites for nature conservation either alone or in combination with other projects. No further assessments nor mitigation is required in this regard. Natural England have reviewed the findings of the Shadow Habitat Regulations Assessment and are satisfied with the conclusions. Accordingly, the Council have adopted the Shadow Habitat Regulations Assessment in exercising their duty as the Competent Authority.
- 5.6.10 In reviewing the development proposal, Natural England have also identified the site as being located in an area in which deep peat may be present. These areas are important in ecological terms and for carbon sequestration. Natural England has advised that further information is required to determine if restorable peat is present at this location. It is important in the first instance to address the history of the development site. Historical mapping and aerial photography shows a railway line was constructed through the centre of the development site to serve the wider Lune Mills area and to connect Lancaster to Glasson Dock. Moreover, the whole of the application site forms part of a large historic landfill site. As part of all of these previous activities and uses, a significant level excavation and ground disturbance would have been experienced. The application is supported by trial hole logs undertaken in association with the preliminary contamination and groundwater appraisal and which did not encounter traces of deep peat. In light of the historical land uses and activities at this site and wider area and the lack of deep peat identified within trial holes, the requirement for further assessment for the presence of deep peat is not considered to be reasonable nor justified in this instance.
- 5.7 **Open Space** National Planning Policy Framework: Section 8. Promoting healthy and safe communities; Strategic Policies and Land Allocations DPD Policies: DOS3: Land at Willow Lane, Lancaster, SC3: Open Space, Recreation and Leisure; Review of the Development Management DPD Policies: DM27: Open Space, Sports and Recreation Facilities.
- 5.7.1 The majority of the development site falls within the Lune Industrial Estate development opportunity site (DOS2). However, an area of approximately 550m² of the northwestern corner of the development site extends into the adjacent Willow Lane Grounds Amenity Greenspace (AGS) designated open space which also forms part of the Land at Willow Lane development opportunity site (DOS3). The DOS3 policy allocation sets out that the Council will support appropriate and suitable proposals that facilitate, enhance and regenerate the quality and quantity of recreational open space provision in this area and seeks to maintain and enhance the biodiversity and amenity value of the site. The development remains outside of the Freemans Wood Town and Village Green designation.

5.7.2 In light of the proposal to develop an area of land that falls within the designated Amenity Greenspace open space and within the Land at Willow Lane development opportunity site (DOS3) policy allocation, it is necessary to assess the effects of the development upon the open space designation, as required by Policy DM27. This policy states:

The Council will not permit the loss of designated open space, sports and recreational facilities unless:

- I. An assessment has been undertaken to demonstrate that it is surplus to requirements;*
- II. An assessment has been undertaken to demonstrate that it no longer has an economic, environmental or community value, which shall include consultation with key stakeholders and the local community;*
- III. The loss resulting from development would be replaced by equivalent or better, high quality provision in a suitable location;*
- IV. The development is for alternative open space, sports and recreation provision, the benefits of which clear outweigh the loss.*

5.7.3 The area of designated open space which is proposed to be incorporated into the industrial development currently comprises of unmanaged scrub type habitat with a line of trees adjacent to the security fence which encloses the area of hardstanding. The area does not have an active use for recreational purposes and does not function as part of the main recreational area of the designated open space, however, it does have an environmental value. In order to be acceptable in the context of the requirements of Policy DM27, the development should satisfactorily address one of the criteria I. – IV. set out in this policy. The proposal is accompanied by an Open Space Assessment, however, when considered against the requirements of Policy DM27, the proposal is not considered to directly address any of the identified criteria. Nor would the proposal directly adhere with the exception criteria set out within Policy DOS3 relating to development within the DOS3 allocation. It is for these reasons that the development proposal is considered to represent a departure from the Development Plan.

5.7.4 In order to address this policy conflict, the developer has committed to providing a financial contribution of £35,000 which is to be directed towards the construction of a pedestrian bridge and associated access arrangements which would be located over Lucy Brook, to the southeast of the development site. The intention of the scheme, to be undertaken by the City Council, is to provide improved pedestrian access to the Willow Lane Grounds Amenity Greenspace and Freemans Wood from the residential area around Willow Lane to the east. This would enable greater accessibility for residents in the Willow Lane area to access the recreational open spaces. Whilst not directly addressing criteria I. – IV. of policy DM27, securing enhancements through this development to enable surrounding residents' greater access to recreational opportunities weighs quite significantly in favour of the development. This is considered to overcome the policy conflict with Policies DM27 and DOS3 and is considered sufficient to justify the development of the area of the site which falls within the designated open space and DOS3 allocations for the industrial development proposed. In addition to this, in developing the site as proposed, the proposal would form a contiguous and coherent boundary line with both the wider Luneside redevelopment proposal to the north and with the designated open spaces to the west.

5.7.5 The football pitches located to the east of the development site are identified as Willow Lane grass pitches designated open spaces. Whilst development remains outside of these designated open spaces, given the proximity of the development to the pitches, it is necessary to assess the potential effects of the development on their continued operation. Policy DM27 states:

Development proposals that are adjacent to designated open spaces, sports and recreational facilities will be required to incorporate design measures that ensure that there are no negative impacts on amenity, landscape value, ecological value and functionality of the space. The Council will only permit development that has identified negative impacts on open space, sports and recreational facilities where appropriate mitigation measures or compensation measures have been provided.

This is consistent with paragraph 193 of the NPPF, which requires new development to be integrated effectively with existing businesses and community facilities (including sports clubs) so as to avoid unreasonable restrictions placed on them as a result of development permitted after they were established.

- 5.7.6 It is against this policy backdrop that Sport England initially objected to the proposal, on the grounds there could be a risk that the proposed development might be at danger from ball strike which could prejudice the sporting use of the football pitches. To overcome Sport England's objections, the applicant has undertaken a ball strike assessment, this has set out that mitigation in the form of ball stop netting measuring 37 metres in length along the eastern boundary of the site adjacent to the football pitches is required. 28 metres of the ball stop netting overall length is required to be 7.5 metres in height, however, a smaller 9-metre-long section would only need to be 5.5 metres in height. These measures are included within the planning application documents and can be controlled by planning condition. Sport England are satisfied with the proposed mitigation and no longer object to the proposals. Additional conditions are recommended to secure the management and maintenance of the ball stop netting in perpetuity, which is required to be the responsibility of the developer.
- 5.7.7 Overall, the proposal has sufficiently justified the release of land from within the designated open space and DOS3 allocations, particularly by way of securing a financial contribution towards delivery an off-site project aimed at improving accessibility for residents to the wider recreational areas. Moreover, the application has demonstrated that the development and existing football pitches can suitably coexist without prejudicing future operations of either land use. In light of the economic benefits of maximising the sites employment opportunities in accordance with Policies DOS2 and EC5 and the social benefits of delivering greater access to recreational facilities, there is considered to be sufficient merit to justify a departure from policies DM27 and DOS3.
- 5.8 **Design** National Planning Policy Framework: Section. 12 Achieving well-designed and beautiful places; Review of the Development Management DPD Policies: DM29 Key Design Principles, and DM30: Sustainable Design.
- 5.8.1 Policy DM29 requires new development to make a positive contribution to the surrounding landscape/townscape through good design, having regard to scale, appearance, layout, materials and local distinctiveness. This policy is consistent with the NPPF, which recognises the importance of good design in achieving sustainable places and the need for new development to add to the overall quality of the area and to sympathetically integrate with existing built environment and landscape setting.
- 5.8.2 The site is located in a peripheral location within the Luneside industrial area. This area is characterised by its industrial form and consists of various large warehouse and industrial buildings. To the west of the development site lies the aforementioned open spaces and Freemans Wood which define the developed edge of this part of Lancaster.
- 5.8.3 The design of the development is influenced by the nature and type of development proposed having regard to the internal and external operational requirements and service yard requirements for typical B2 and B8 uses. The layout ensures the development provides active frontages along the internal estate road and has incorporated suitable footways to support accessibility. The use of security fencing and tall ball stop netting is an essential requirement for the uses proposed and in light of surrounding uses, however, these have been suitably incorporated into the development layout in order to adequately mitigate against the visual effects arising from industrial nature of the required infrastructure.
- 5.8.4 In terms of the buildings themselves, whilst they are of a notable size, they have been designed to offer similar accommodation to the previously approved adjoining scheme which makes up the majority of Lune Industrial Estate (20/01145/FUL). They are of similar proportions, including the 6 metre ridge height, to the neighbouring development. The design and appearance of the development is typical of an industrial development. Given the character of the existing area, it is considered that this approach would be acceptable in this location and would contribute to the character and identity of the existing business park. The proposal includes the use of different coloured cladding panels, grey roofing panels, and window/door openings/roller shutter doors to the primary elevations. This represents an acceptable design approach for the types of uses proposed and their appearance is typical of industrial units.
- 5.8.5 Policy DM30 encourages new development to deliver high standards for sustainable design and construction through the consideration of measures to reduce energy consumption and the use of

renewable and low carbon energy systems. The developer has confirmed that the development will exceed building regulation requirements and take a fabric first approach to building design. The developer has also confirmed that renewable technologies such as solar panels are to be incorporated where possible. A planning condition is recommended in order to secure final details of building efficiency measures and the use of any renewable technology on the buildings (e.g. PV panels). With these conditions, the development is considered to satisfy the requirements of policy DM30.

5.8.6 Overall, the design of the development is considered acceptable and suitable for its location. Whilst the buildings are large, they will represent high quality industrial development which relates well to the wider Luneside industrial area. The development will also complete the remaining parcel of this industrial area, providing enhancements to the industrial estate itself. Subject to conditions controlling the precise colour, texture and finish to the building materials, including fencing, the development is considered to fully accord with policy DM29 of the DM DPD and chapter 12 of the NPPF.

5.9 **Employment and Skills Plan** National Planning Policy Framework: Section 6. Building a strong, competitive economy; Review of the Development Management DPD Policies: DM28: Employment Skills Plans and the associated Supplementary Planning Document.

5.9.1 The applicant has committed to developing a deliverable Employment Skills Plan (ESP) to support and enhance local employment opportunities and upskilling (through the construction phases of the development) in accordance with Policy DM28 and the supporting ESP Supplementary Planning Document (SPD). The submitted ESP has been reviewed by the Councils Regeneration & Development Officer who has confirmed that the document forms an acceptable framework for a final ESP to be agreed at a later date, which can be satisfactorily secured by planning condition.

5.10 **Other Matters**

5.10.1 **S106** – As described within paragraph 5.7.4, the developer has committed to providing a financial contribution of £35000 towards the construction of a pedestrian bridge and associated access arrangements which would be located over Lucy Brook, to the southeast of the development site. The financial contribution would need to be secured by way of a Section 106 agreement.

6.0 Conclusion and Planning Balance

6.1 It has been demonstrated that whilst the proposed development departs from the land use requirements set out in policy DOS3 - Land at Willow Lane, Lancaster, as well as the requirements of Policy DM27, it will provide significant economic and social benefits to the district sufficient to justify the identified conflict. The development provides a flexible approach to the types of economic and employment uses sought within the Lune Industrial Estate development opportunity site (DOS2). The proposal also fully accords with the policy objectives of policy EC5, which specifically supports the regeneration of the Luneside area for modern employment facilities. The economic and social benefits arising from the development should be afforded significant weight. The applicant has sufficiently demonstrated the impacts of the development on nearby sensitive receptors can be made acceptable with the identified mitigation. The applicant has also evidenced the development would not adversely impact the operation and safety of the local and strategic highway networks, with suitable measures incorporated to encourage sustainable travel. The design of the development will be similar in nature, scale and appearance to that already present within the Luneside Industrial Estate and that which has recently been approved within the larger scale redevelopment proposal located immediately to the north. As such the proposal is not considered to adversely impact the character and appearance of the townscape in this location. The applicant has also demonstrated that the proposal would not conflict with flood risk policy and that the development will incorporate a sustainable drainage system. The only matter weighing against the proposal, is the absence of net gains in biodiversity and impacts on existing trees/hedgerows. Whilst new planting will mitigate against some of the losses, the development cannot secure net gains in biodiversity despite exhausting options to secure this off site. Given that mandatory BNG does not apply to this proposal, and that current planning policy only requires net gains where possible, it is concluded that this would not amount to a significant policy conflict, nor is it considered significant enough to

substantiate a refusal of planning permission. On this basis, it is recommended planning permission is granted.

Recommendation

That Planning Permission **BE GRANTED** subject to a s106 legal agreement to secure a financial contribution towards an off-site enhancement scheme and the following conditions:

Condition no.	Description	Type
1	Timescale	Control
2	Approved plans	Control
3	Construction Management Plan	Prior to commencement
4	Employment Skills Plan	Prior to commencement
5	Surface water drainage strategy	Prior to commencement
6	Construction phase drainage strategy	Prior to commencement
7	Foul drainage strategy	Prior to commencement
8	UU infrastructure protection methodology	Prior to commencement
9	Contamination Investigation	Prior to commencement
10	Invasive species management plan	Prior to commencement
11	Details of pedestrian facilities	Prior to above ground works
12	Details of EV charging facilities	Prior to above ground works
13	Details of cycle storage facilities	Prior to above ground works
14	Details of habitat enhancement measures	Prior to above ground works
15	Details of landscaping and maintenance	Prior to above ground works
16	Final details of all external materials, including samples, to the buildings and fencing	Prior to above ground works
17	Final details of energy efficiency and renewable energy technology including their location, dimensions and appearance	Prior to above ground works
18	Final details of ball stop netting including management and maintenance and implementation	Prior to occupation
19	Implementation of access arrangements, parking and turning facilities	Prior to occupation
20	Surface water drainage strategy system operation and maintenance details	Prior to occupation
21	Verification Report of Constructed Sustainable Drainage System	Prior to occupation
22	Development in accordance with Flood Risk Assessment	Control
23	External plant not to exceed specified dB levels	Control
24	Hours of construction	Control
25	Air quality mitigation measures	Control
26	Development in accordance with ecological mitigation	Control
27	Development in accordance with AIA	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

None