



**DEVELOPMENT CONTROL
COMMITTEE**

**COUNCIL CHAMBER, BURNLEY
TOWN HALL**

Thursday, 12th August, 2021 at 6.30 pm

SUPPLEMENTARY AGENDA

8) *Update Report - Green Sheet*

3 - 72

This page is intentionally left blank

DEVELOPMENT CONTROL COMMITTEE

Thursday 12th August 2021

Late Correspondence

AGENDA ITEM 6

Agenda Item 6c

COU/2021/0277 - Proposed partial demolition of existing building and external alterations to form food store (Class E) and associated servicing, landscaping and re modeling of car park with access and egress from Manchester Road.

Further to the publication of the committee report officers have been advised to expand and address the matters highlighted in the objection (appendix 1) received from MRPP acting on behalf of their client Tesco Stores Limited.

As noted within the committee report the applicant has provided a full rebuttal (appendix 2) to the objection letter received and an updated sequential and impact assessment (appendix 3). Additionally, the Council instructed Nexus Planning to provide advice in respect of the merits of the application with regards to its compliance with retail and town centre planning policy as set out by the Local Plan and the NPPF (appendix 4).

The objection letter sets out a number of points in relation to the proposal developments Impact on Burnley Town Centre, which are addressed in turn below:

- **Tesco and Other Supermarket Retailers Role in Underpinning Burnley's Town Centre Health**

Officer Response: It has been clearly identified within the rebuttal that the four stores identified by MRPP are also reliant on car borne users as will be the case for users of the proposed development, this has been adequately addressed within the Health Check assessments submitted by Rapleys. This is also reiterated by the independent advice that the council have sought from Nexus Planning.

- **An understated Impact on Burnley Town Centre**

Officer Response: As identified within the applicant's rebuttal, there is no planning policy requirement for an impact analysis to include the stores identified by MRPP, which are sited outside of the town centre. It is, therefore, considered that the potential for the loss of some trips between the town centre and other stores is not at a level which would have a significant impact on the town centre of its vitality or viability. This is reiterated by the Nexus Planning response and officers are, on balance, satisfied that sufficient regard has been to understand any potential impact on Burnley town Centre

- **The Need for a Robust Approach to Town Centre Impact Assessment**

Officer Response: MRPP questioned the approach taken in regards to the retail impact assessment, suggesting more analysis was required. The impact assessment along with the

updated information was assessed by Nexus Planning who confirmed that the retail study is an appropriate basis on which to base the assessment, and that the applicants approach allowed for an appropriate assessment to take place. Officers are therefore satisfied that this requirement has been met.

- **The Use of a Flawed Approach to Justify Capacity for the Proposal**

Officer Response: The retail impact assessment along with the impact assessment has been assessed by Nexus Planning who have considered the calculations and methods used and consider that the store can operate comfortably within its catchment area without adversely affecting the wider retail, leisure and service offer in the town centre and that the large proportion of impacts that will arise from the proposal would occur at edge and out of centre stores which are not offered protection by local planning policy.

- **A Retail Impact Assessment that is not Fit for Purpose**

Officer Response: The retail impact assessment along with the additional information submitted by Rapleys has been assessed by Nexus Planning who has confirmed that the submitted information is satisfactory given the context of the proposed development and the inputs used are appropriate. The impact assessment meets the requirements of the NPPF impact test.

- **Relating Impact to the Challenged Health of the Town Centre**

Officer Response: It has been clearly identified within the rebuttal that the Health Check assessments carried out are relevant and up to date and that the conclusion that has been reached is sound and justified. This is also reiterated by the independent advice that the council have sought from Nexus Planning.

Failure to Satisfy the Sequential Test

- The Site's Out of Centre Location
- Ineffective Sequential Assessment of Alternative Opportunities

Officer Response: The submitted info identifies a number of sites which Rapleys do not believe are available and suitable to accommodate the proposed development. In respect of the sequential approach to development all of the sites identified by the applicant have been reviewed and the Council agree with Rapleys and Nexus's assumption that any are both available and suitable to accommodate the application proposal, even allowing for appropriate flexibility. Officers are unaware of any other sequential sites offering realistic potential to accommodate the proposal and, as such, find that it accords with the requirements of paragraphs 87 and 88 of the NPPF.

An Unsustainable Business Model

Officer Response: Lancashire County Council's comments are attached in full as Appendix 5 to this report. In summary they do not object to the proposed development on site sustainability. LCC Highways do however recommend a number of conditions including a condition ensuring principles of the accompanying Travel Plan are satisfied. A condition (No.17) has been attached for this reason.

Revised Recommendation: Approve subject to amendments to condition numbers as follows:

Condition 9:

All specified plant and machinery shall be enclosed with sound insulating materials in accordance with a scheme to be agreed in writing by the Local Planning Authority, implemented prior to the commencement of the use hereby approved and permanently retained and maintained thereafter to the satisfaction of the Local Planning Authority.

Reason: To prevent noise nuisance to adjoining properties in accordance with policy SP4 of the Burnley Local Plan.

Condition 11:

The plant area and enclosure details shown on the proposed site plan shall be provided before the start of the use and thereafter permanently retained.

Reason: To provide satisfactory refuse storage provision in the interests of the appearance of the site and locality and to ensure compliance with policy SP5 of the Burnley Local Plan.

Condition 14:

Before the car park spaces hereby approved are brought into use, a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing provision of the electric vehicle charging points, including their location and specification. The approved scheme shall be installed and operational prior to the commencement of the use hereby approved.

Reason: In the interests of air quality management and protection of health, in accordance with Policies IC1, IC3 and NE3 of the Local Plan.

Condition 17:

The development hereby approved shall be carried out in complete accordance with the monitoring and reviewing section of the submitted Travel Plan, ref. SCP/200788/TP/1, carried out by SCP, unless agreed in writing by the Local Planning Authority.

REASON: In the interests of Highway Safety in accordance with IC1 and IC2 of the Local Plan.

Condition 21:

No site preparation (which includes demolition) or construction to commence until all temporary access works shown on dwgs SCP/200788/D13 (site access) and SCP/200788/D16 (off site works) are provided and agreed in writing by the Local Planning Authority in consultation with the appropriate highway authority.

Reason: In order that the traffic generated by site preparation/demolition or construction does not exacerbate unsatisfactory highway conditions.

Condition 27:

Prior to first use of the development a Delivery, Servicing and Waste Management Plan including hours of servicing and deliveries, the use of a banksman where any reversing is required, shall be submitted to, and approved in writing by, the Local Planning Authority, strategy to link into car park management strategy.

Reason: In order to maintain flow of traffic on local roads when the development is operational.

Appendix 1 – Objection Letter received from MRPP acting on behalf of Tesco Store Limited

Our Ref: 2995/MR/20210709



Dear Paul,

CHANGE OF USE AND ASSOCIATED EXTERNAL CHANGES TO FORM A DISCOUNT (OUT OF CENTRE) FOODSTORE AT REEL CINEMA, HOLLYWOOD PARK, MANCHESTER ROAD, BURNLEY - APPLICATION REFERENCE: COU/2021/0277

We act on behalf of Tesco Stores Limited and make representations of objection with regard to the above planning application. Tesco trade from an edge of centre Extra superstore in Burnley and a town centre store in Padiham. Both stores serve to underpin the health of the respective town centres through the footfall they deliver.

The objections relate to the following matters:

- Impact on Burnley Town Centre
- The need for more rigorous sequential testing and,
- Additional trips causing the business model to be unsustainable

Impact on Burnley Town Centre

For retail assessment purposes it is necessary to review the impact of the application proposal, “...on town centre vitality and viability...” (Paragraph 89b of the NPPF).

Tesco and Other Supermarket Retailers Role in Underpinning Burnley’s Town Centre Health

Large scale retail facilities in and around the town centre assist in generating the footfall needed to achieve ‘town centre vitality and viability’. Our client’s Extra store is such a facility as are the Sainsbury’s and Aldi stores to the northwest of the centre and slightly less so, the Asda. The applicant’s agent, Rapleys, in considering ‘Retail Representation’ as part of their Health Check of Burnley Town Centre (Appendix 1 to their Retail Statement) agree. They conclude that “*Tesco Extra’s supermarket clearly has an important convenience goods retail function for the local community, and individuals who visit Burnley Town Centre*”. Rapleys also confirm the “...dominant role within the convenience shopping system...”, that Asda and Sainsburys provide (paragraph 7.138).

These stores are all located such that their connectivity with the town centre will, to varying degrees, generate quite significant footfall within it. Other interests there, particularly comparison goods retailers, will therefore benefit from the proximity of these stores to the

Martin Robeson Planning Practice is a trading division of Martin Robeson & Partners Ltd
(Registration No. 05329525)

MARTIN ROBESON BA FRTP I FRICS FRSA

JOSEPH DANIELS BA (HONS) MSC MRTPI ALEX WALKER-ROBSON BA (HONS) MTCP MRTPI

ABRAHAM LAKER BA (HONS) MA MRTPI

www.mrpp.co.uk
OLIVER FOUNTAIN BSC (HONS), MSC JESSICA FERGUSON LLB MA MRTPI

heart of the centre. That becomes highly relevant to the assessment of impact on town centre trading conditions.

An Understated Impact on Burnley Town Centre

Bearing in mind the significant footfall generated from Tesco's Extra store together with the other grocery retailers (Asda, Sainsbury's and Aldi), an assessment that looks only at impact on the limited convenience goods retailing within the defined shopping centre, will not fairly represent the effect on the centre as a whole. Indeed, Rapleys reminds us that, "... it is necessary to look at the impact of the development on the centre as a whole..." (see, for instance, at paragraph 7.134).

These four stores together are projected to suffer a diversion of -£9.37m (2026). That must be contrasted with only -£0.65m from the more limited list of 'town centre' Burnley convenience goods stores put forward by Rapleys (Table 6B of Appendix 2). When the footfall associated with that much greater diversion is included in the assessment of impact on the 'vitality and viability' of the town centre, the combined (-£10.02m) effect is much more likely to become "*significant*" ie, the outcome that warrants refusal (Local Plan Policy TC2 and paragraph 90 of the NPPF).

The applicant should be requested to undertake sensitivity testing along these lines. That would more effectively represent the significance of the impact on Burnley town centre as a whole.

The Need for a Robust Approach to Town Centre Impact Assessment

More rigorous testing is important because the proposals have a scale that exceeds the local 1,000m² gross threshold requiring full retail impact assessment.

The Government's National Planning Guidance (NPPG) set out the circumstances where a reduction from the default threshold of 2,500m² gross should be applied. The criteria include:

- scale of proposals relative to town centres
- the existing vitality and viability of town centres, and - where the local town centres are vulnerable.

The Council's up-to-date, adopted Local Plan imposes the local threshold of 1,000m² gross floor space (GEA) above which any planning application for retail development is required to be subject to comprehensive retail impact assessment (Policy TC2). The application proposal is for a retail store of over 2,000m² gross external area. That is twice the local threshold for full impact assessment. The Local Plan explicitly relies upon the advice in its

evidence base that “... *considers that proposals for retail, leisure and office development of 2,500m² gross and below could have a significant impact on town centres and the default threshold is therefore appropriate to local circumstances*”.

Thus, the local circumstances pertaining to the current application demonstrate the requirement for retail assessment to be one where there is an expectation that it be undertaken thoroughly and with rigour rather than on some less than exhaustive or unduly

‘proportionate’ basis. This includes the kind of sensitivity testing referred to above.

The Use of a Flawed Approach to Justify Capacity for the Proposal

As a precursor to an attempt to undertake a retail impact assessment of the proposal, a form of capacity assessment has been undertaken by Rapleys (at paragraphs 7.122 to 7.128 of their Retail Statement).

However, there is a fundamental difference between the assessment of retail (trading) impacts of a specific proposal and a capacity analysis. The former identifies the sources of available catchment area expenditure that the new store will attract and how that expenditure will be diverted from existing stores allowing the total diversion from each town centre to be aggregated. And then in the context of knowledge of the up-to-date health of respective centres (see below), can draw conclusions as to the severity of the impact on each centre usually at a time two years after the proposal might open. The latter approach identifies whether there might be a quantitative need for the proposal. It starts with the same knowledge of available catchment area expenditure, but it does not then track existing and projected spending patterns. Instead, it considers existing provision and how it would trade at a ‘benchmark’ or company average position. Any commitments are similarly considered. An efficiency or growth factor is often applied to existing store turnover as a first claim on available spend (particularly for those located in town centres). The respective totals are grown to an assessment year. The “*available capacity*” is any positive value that then emerges. By applying a benchmark trading density, floorspace quantum is generated.

Capacity assessment is a broad brush tool designed to test whether there is, or is not, equilibrium in the supply of retail floor space in an area. Its use is for plan making – establishing whether unmet needs exist – rather than in assessing the effects arising from a specific new proposal.

However, what Rapleys have undertaken on behalf of the applicant is not even a capacity analysis. All that has been done is “...*a comparison of available expenditure within the proposed five-minute drive time catchment area, against the benchmark turnover of the proposed store*” (paragraph 7.122). Those figures are then set out with the finding that “... *The proposed turnover represents circa 22% of the total available convenience expenditure within the agreed catchment area*”, before explaining, “*these figures confirm that there is ample capacity to accommodate the proposed development, as there will be £39.89m (2026) remaining for other convenience goods retailers*” (paragraph 7.124). This is to totally misrepresent the whole purpose of any kind of assessment. Even a capacity analysis model, in assessing the amount of expenditure that might be available to support another store, would see matters in light of what ‘might be “*remaining*” to support new development after the turnover of existing floorspace is

taken into account' but certainly never the other way around with the new proposal have first claim on available spending.

The capacity analysis outcome provided can be of no use to the local planning authority in decision making on this application, indeed, quite the opposite. It gives a wholly misleading suggestion of acceptability were nothing of the kind has been demonstrated.

A Retail Impact Assessment that is not Fit for Purpose

Rapleys' Retail Impact Assessment (at Appendix 2 to their Retail Statement) relies on inputs that are far from robust. It applies company average or benchmark turnovers to each specific retailer (and thus by aggregation) for relevant centres. Adopting company average values can be unrepresentative of local circumstances which are critical (see below) to the assessment of impact on local town centre health. In the case of Burnley, where there is relatively mature provision of food retailing, there is the real prospect of actual trading performance being at a level below company average.

Such discrepancies can be identified from Rapleys' own work. Table 6B of Appendix 2 uses household survey derived turnover information from the Council commissioned 2013 assessment (undertaken in October 2012) which followed the opening of the Tesco in Padiham. The turnovers of both the M&S and Tesco Extra Burnley stores (as projected forward to 2021) are noticeably lower when taken from the survey of local shopping behaviour than in using company average figures. But in completing their Retail Assessment Rapleys have chosen to rely on the higher company average figures.

However, whilst the 2012 data would provide more accurate, comparative figures between the competing retailers across the area, their overall reliability will have considerably reduced because of the significant growth in online retailing which has not been consistent across all locations and demographics¹. Thus, even if Rapleys were to rely on the 2012 data this would now be subject to considerable margins of error.

In situations such as this the normal convention is for the retail consultant to commission an up-to-date household survey of relevant shopping behaviour. In that way robust and representative data can be obtained in respect of the trading performance of all of the relevant stores (and, by aggregation, of the centres) and the patterns of expenditure flows to them. Because of the requirement for a robust retail impact assessment (including in respect of the limited scale of the local threshold) the applicant should be required to commission a household survey, as they have elsewhere, so that the Council's decisionmaking can be robust.

Relating Impact to the Challenged Health of The Town Centre

Government Guidance (in the NPPG) sets out the 'steps' that need to be taken in applying the town centre impact tests. These are inherent in the approach adopted by the Council's Local Plan. The first of these includes "*establish the state of existing centres*". It then sets out the "*...indicators (that) may be relevant in assessing the health of the town centres...*". It lists 13 that are routinely used. Importantly, it explains that "*A judgement as to whether the likely adverse impacts are significant can only be*

¹ Retail consultants routinely apply an industry-wide deduction for 'special forms of trading', which includes online retailing (other than out of existing supermarkets) but it has no adjustments applied to it reflecting local considerations.

reached in light of local circumstances. For example, in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from the new development may lead to a significant adverse impact”.

All of the town and district centre health checks were originally carried out by Rapleys in December 2018². However, as centres have now emerged out of lockdown Rapleys have taken the opportunity to review their health, to include on the ground, real-world scrutiny. Significantly this has revealed that in comparing Table 1 of their original Burnley Town Centre Health Check (December 2018) with their latest update (June 2021) a very substantial 48% increase in town centre vacancies is revealed. This sits well above the overall national rate across all centres - which is, in any event, a poor comparator because it does not compare like centres with like.

Worryingly Rapleys do not interpret this increase in vacancies correctly. Their conclusion on Burnley’s Town Centre Health Check erroneously states that *“vacancy rates (have) improved considerably since the previous Town Centre assessment”*. With a 48% increase this is clearly wrong. As vacancy rates are a key indicator of town centre health, their conclusion that the town centre is in a *“good state of health”* is wholly unjustified and inappropriate. The assessment of retail impact therefore needs to be set against the health of a centre that is not performing well and exhibits signals of stress.

For all these reasons there is likely, even without further sensitivity testing and up-to-date survey work, to be a significant adverse impact on Burnley Town Centre’s vitality and viability such that permission should be refused in accordance with Local Plan Policy TC2.

Failure to Satisfy the Sequential Test

Sequential assessment forms a central plank of the Government’s *“town centre first”* policy (see the NPPG) and is key to achieving sustainable development.

The Site’s Out of Centre Location

For sequential assessment, the determination of an ‘edge of centre’ opportunity arises out of its distance from the town centre’s Primary Shopping Area (PSA) (see glossary of terms to the NPPF). Burnley Town Centre’s PSA is now relatively tightly defined by the Local Plan. The application site, even at its nearest point, falls well outside the definition of ‘edge of centre’³. It is therefore classified as an ‘out of centre’ location. As such the sequential test requires a review of other out of centre opportunities to assess whether any are on *“...more accessible sites that are well connected to the town centre”* (Local Plan Policy TC2 and paragraph 88 of the NPPF). Rapleys’ assessment has failed to search for such opportunities.

² Whilst it is stated at paragraph 7.14 of the Retail Statement (May 2021) that *“... in February 2021 Rapleys has undertaken a health check assessment of the identified centres which has had regard to the national key indicators of ‘health’ contained in the NPPG”*, we understand that this relates only to some published data sets as later explained, ie. *“...based on Experian and Co-Star data (where available)”* (paragraph 7.28) and did not involve site visits.

³ At Appendix 1 of their Retail Statement, Rapleys assert that, *“The nearest part of Burnley Town Centre is located approximately 217m to the north of the application site”*. However, the town centre boundary is drawn much wider than the PSA as can be seen on the Local Plan’s Policies Map. For the same reason, the ‘edge of centre’ assertion made at paragraph 6.4 of Smith & Love’s Planning Statement (May 2021) is incorrect.

Ineffective Sequential Assessment of Alternative Opportunities

Rapleys' assessment of sites falls short of the necessary rigour consistent with the test's purposes. On 'suitability' it is not appropriate to simply assert that "...*development for retail purposes would be contrary to the development plan*". Development plans rarely allocate land for retail development and such development will frequently make use of land identified for other purposes but where a case can be made out, either through the specific criteria attached to a policy, or via 'other material considerations' then planning permission can be granted. Likewise, in respect of 'availability', that the site "*is not currently on the market*" is not an adequate response. There is an expectation that sequential assessment will reach out to landowners to identify opportunities that they may not have considered. The Council may be aware of a relevant recent Inspector's decision on two appeals⁴. It sets out an expectation of an appropriate level of understanding of the landowners intention of availability as well as finding that "*The question of whether the site is being actively marketed seems to me to be a peripheral matter. Active marketing is not a prerequisite for a site being available through other channels. Lack of current marketing may indicate no hurry to dispose of the land, but not unwillingness*" (paragraph 15).

Testing has not adequately considered key 'availability' and 'suitability' criteria. The applicant should be required to carry out the assessment more diligently.

An Unsustainable Business Model

The applicant accepts that the proposed business model, in focusing on a limited number of deeply discounted products, fails to provide a broad enough range of food and convenience goods to meet the needs of most customers during a single shopping trip. Rapleys' Retail Statement explains that, "...*customers tend to purchase part of their main grocery shop (i.e. basic staples) in store, taking advantage of the low prices, but then visit other retailers...*" (Paragraph 4.17). Thus, there is an absolute recognition that in visiting such a store it will be necessary for there to be an additional or further trip. This contradicts with the principle of limiting trips to reduce overall travel and vehicular mileage.

Where necessary such multi-visit shopping trips are most sustainably and conveniently undertaken in town centre locations. There, linked trips can be made to different retail providers without additional overall trips being made. And development in town centres is best able to be served by public transport and other sustainable modes of travel. This is why planning policy at national and local levels has a 'town centre first' approach which is managed by the impact and sequential assessment tests. These matters are also central tenets of local and national planning policy relating to sustainable development.

However, the application's Transport Assessment fails to recognise, have any regard to or assess the effects that arise from the business model's generation of additional or further linked trips arising from the need to complete shopping activity elsewhere (which would

⁴ Planning appeal decisions APP/W3005/W/18/3204132 and 20/3265806 (13th April 2021).

not be the case with trips to a larger grocery stores). The text from its paragraph 6.6 onwards does not address the number of, or effects, arising from such additional trips.

There must therefore be revisions made to the Transport Assessment to reflect the business model, the nature of its trips, additional mileage generated and travel associated with the development. Then an effective assessment can be made of its true travel and highway impacts. Without such further analysis, the application should be refused.

Conclusions

On behalf of our client, Tesco Stores Limited, we have identified serious concerns with the planning application. In summary:

- Tesco and other supermarkets in Burnley contribute significant footfall to town centre retailing. When the impact on these stores is properly taken into account in the context of there being a full retail impact assessment and proper regard is had to the current health of the centre, with its substantial increase in vacancies, there is likely to be a significant adverse impact on vitality and viability contrary to relevant provisions in Local Plan Policy TC2.
- The proposed development is located in an out of centre location and the search for sequential test opportunities needs to be cast wider. The assessment of sites falls short of the necessary rigour in testing for their suitability and availability. The proposal is therefore contrary to the relevant provisions in Local Plan Policy TC2.
- The proposal's business model requires shoppers to complete their purchases of necessary items elsewhere, causing extra trips, additional car mileage and travel rendering the development unsustainable and thus contrary to Local Plan Policy SP1.

Planning permission should therefore be refused.

Yours sincerely,

Martin Robeson

martinrobeson@mrpp.co.uk

Appendix 2 – Response received from Rapleys LLP acting on behalf of Maple Grove Developments in response to the representation of objection submitted by Martin Robeson Planning Practice (MRPP), on behalf of their client

JRH/18-02992

19 July 2021

Planning Department
Burnley Borough Council
Town Hall
Manchester Road
Burnley
BB11 9SA

55 Spring Gardens
Manchester
M2 2BY

0370 777 6292
info@rapleys.com
rapleys.com

LONDON
BIRMINGHAM
BRISTOL
CAMBRIDGE
EDINBURGH
HUNTINGDON
MANCHESTER

Dear Sir/Madam

Re: Planning Application Ref. COU/2021/0277

Proposed partial demolition of existing building and external alterations to form food store (Class E) and associated servicing, landscaping and re modelling of car park with access and egress from Manchester Road.

Reel Cinema, Manchester Road, Burnley, Lancashire, BB11 2EG

Rapleys LLP are instructed by Maple Grove Developments. We have been asked to provide a written response to the representations of objection submitted by Martin Robeson Planning Practice (MRPP), on behalf of their client.

This response will address comments raised with regard to retail impact.

Notwithstanding the content of the objection, it is clear that the representations have been submitted to simply protect the commercial interests of their client. The comments raised should be viewed in this context.

It is not the role of the planning system to restrict competition, preserve existing commercial interests or to prevent innovation within the retail sector.

Indeed, the planning process promotes competition between retailers because it increases choice for consumers, and can result in productivity and efficiency gains, which in turn lowers the price of goods and services.

It is considered that this position should be relayed to Members within the Committee Report so that they are clear as to how these representations should be considered.

For ease of reference, the same headers utilised by MRPP have been adopted in this correspondence.

TESCO AND OTHER SUPERMARKET RETAILERS' ROLE IN UNDERPINNING BURNLEY'S TOWN CENTRE HEALTH

MRPP suggest that the health of Burnley Town Centre is underpinned by foodstores which are not located in the defined town centre.

In this context, it should be noted that National Planning Policy Framework (NPPF) (2019) paragraph 85 requires "the impact of the proposal on **town centre** vitality and viability" be considered.

Burnley Town Centre is clearly defined through the Local Plan for Burnley, which was adopted in 2018.

The Local Plan identifies the Tesco Extra store, J. Sainsbury store, Asda store, and the two Aldi stores as being outside of the defined town centre. All of these stores are quite some distance from the centre's Primary Shopping Frontage. These stores are not afforded protection in retail planning terms.

When adopting their Local Plan, Burnley Council made a fully informed decision not to include these stores within the defined Town Centre. If the Council considered that these stores were integral to, and functioned as part of Burnley Town Centre, they could have chosen to include them as part of the defined centre. However, they did not.

The Inspector's Report for the Local Plan fully advocates the defined Burnley Town Centre area.

Paragraph 146 and 147 of the Inspector's Report state:

“The Local Plan proposes amendments to the boundary of Burnley Town Centre with a more tightly defined area focussed on the greatest concentration of main town centre uses. This is based on the recommendation of the Retail, Office and Leisure Assessment. Although there are retail and other main town uses outside of this area, I consider that the reduced Town Centre more closely aligns with the definition in the NPPF. The Town Centre would also be well contained by the strong physical features provided by the key road network of Queen’s Lancashire Way/Hammerton Street/Finsley Gate, Centenary Way/Church Street and Active Way.”

“The Burnley Retail Park contains active retail uses and is close to the defined Primary Shopping Area. However, this part of the Primary Shopping Area contains secondary frontages. The retail park sits on the other side of Church Street which is a busy dual carriageway with limited crossing facilities for pedestrians. The retail units face away from the Town Centre and the wider area on this side of the dual carriageway is characterised by a greater mix of uses, including residential and industrial areas. The Local Plan is justified in defining the Town Centre to exclude this area.”

The four stores in question, are all physically separated from the Town Centre, with Tesco Extra sitting beyond Centenary Way (A682) to the south east of the centre and J. Sainsbury, Asda, and Aldi all sitting beyond Active Way (A679) to the north west, which limits the propensity for linked trips by foot, between these stores and the town centre.

Furthermore, the large format main foodstores: Tesco, J. Sainsbury, and Asda, are principally geared towards car borne customers given their retail offering and the extent of car parking at the stores. Therefore, it is considered that the majority of linked trips taking place between these stores and the town centre are likely to be car borne.

From a locational standpoint, the discount foodstore proposed through this application offers this same opportunity for linked trips with the town centre, perhaps in higher propensity, given that a discount foodstore does not provide the full retail offer like a large format main foodstore.

AN UNDERSTATED IMPACT ON BURNLEY TOWN CENTRE

Further to the suggestion by MRPP that the health of Burnley Town Centre is underpinned by foodstores which are not located in the defined town centre, they have suggested that impact analysis should be undertaken, which includes the supermarkets, which are not located within the defined town centre, as part of the town centre.

There is no requirement in planning policy terms for such an assessment to be undertaken. However, from the assessment which was submitted as part of the planning application submission, the anticipated impacts from the development proposed on these stores located outside the defined town centre are not considered to be significantly adverse in any event.

MRPP do not go as far as suggesting that this would be the case. Further, they do not suggest that the development would jeopardise their client’s trading position within the town. In any event, as previously stated, out of centre stores are not afforded any protection by planning policy.

THE NEED FOR A ROBUST APPROACH TO TOWN CENTRE IMPACT ASSESSMENT

MRPP have questioned the approach taken to the retail impact assessment and have suggested that more analysis is required. However, the level of detail in any assessment of impacts must be

proportionate to the scale, nature and detail of the proposed development (Planning Practice Guidance Paragraph: 017 Reference ID: 2b-017-20190722)

The development proposed is a small scale foodstore, which will serve a relatively localised catchment, and which will have a modest turnover. The assessment provided is wholly appropriate in this context and clearly demonstrates that the proposed store will not give rise to any significant adverse impacts upon defined town centres.

The proposal is for a standard format discount foodstore and not a large format main foodstore such as a Tesco Extra, which might have around 4 – 6 times the net sales area, 4 – 6 times the turnover, and would generally stock more than 40,000 different product lines, compared to the circa. 2,000 product lines stocked by a discount foodstore. The modest nature of the development proposed is very clear in this context.

THE USE OF A FLAWED APPROACH TO JUSTIFY CAPACITY FOR THE PROPOSAL

MRPP suggest a flawed approach has been used to justify capacity for the proposal. However, they appear to have misunderstood the information presented and what it is intended to show.

As they have correctly identified, there is no policy requirement to demonstrate quantitative need for development proposals through the planning application process, nor indeed a defined methodology that planning applications must follow in demonstrating quantitative need. This has not been a requirement since Planning Policy Statement 6: Planning for Town Centres (2005) was replaced by Planning Policy Statement 4: Planning for Sustainable Economic Growth in 2009.

The exercise undertaken and presented within the Retail Statement, submitted in support of the planning application, is a comparison of available retail expenditure within the catchment area of the proposed store with the anticipated turnover of the proposed store. The Retail Statement sets this out clearly.

Contrary to what MRPP have suggested, this is of use to the local planning authority in making a decision on the application.

The information presented confirms that the turnover of the development at 2026 would equate to just 13.2% of the total available retail expenditure within the 5 minute drive-time catchment area. This confirms the relatively modest nature of the proposed discount foodstore in the context of the catchment area it is intended to serve. Furthermore, it confirms that the store can operate comfortably within this catchment area, without having to absorb a significant proportion of the catchment areas total available retail expenditure.

In contrast, if a store was likely to absorb 100% of the turnover within its catchment area, there is quite clearly a high propensity for adverse impacts from the proposal, given that it would rely upon absorbing all available retail expenditure at the expense of other retailers.

A RETAIL IMPACT ASSESSMENT THAT IS NOT FIT FOR PURPOSE

MRPP have suggested that a householder survey of relevant shopping behaviour should be undertaken and then used as the basis for the retail impact assessment. The applicant disagrees with this position.

The impact assessment provided fully complies with the requirements of the NPPF and relevant advice set out within Planning Practice Guidance.

As set out above, the level of detail of any assessment of impacts must be proportionate to the scale, nature and detail of the proposed development. The development proposed is a small scale foodstore, which will serve a relatively localised catchment, and which will have a modest turnover. The undertaking of a householder survey is simply not commensurate to the type and scale of development proposed.

The assessment provided is wholly appropriate in this context and clearly demonstrates that the proposed discount foodstore will not give rise to any significant adverse impacts upon defined town centres, given the profile of the retailers located within the associated centres.

In regard to Burnley Town, there will be limited overlap in terms of goods sold from a discount foodstore and those sold by the retailers within the centre and thus, associated impacts will be limited. The convenience / comparison floorspace split for a typical discount foodstore is 80 / 20. In this case, the net floorspace split equates to 1,058 sq.m convenience and 264 sq.m comparison.

Burnley Town Centre has a relatively limited convenience offering and a discount foodstore has a relatively limited comparison offering. This limits the proposal's impact on the town centre further. In contrast, a large format main foodstore would generally stock a much more comprehensive range of comparison goods, which in turn, leads to this type of store competing on more of a like for like basis with the retailers located in Burnley Town Centre.

The stores which the proposed discount foodstore will compete with are the other discount foodstores in the shopping system, the Aldi stores at Active Way and Todmorden Road, and the larger format supermarkets, the Tesco Extra store, J. Sainsbury store, and Asda store. As set out, these stores are not located within the defined centre and as such are not afforded policy protection.

In Tables 6 and 6b of Appendix 2 of the Retail Assessment submitted with the application, the impact of the proposal on Burnley Town Centre, using both benchmark turnover figures (Table 6) and turnover figures derived from the Council's Retail Study (Table 6b) is considered. Table 6 identifies an impact of 2.68% on the convenience turnover of Burnley Town Centre and Table 6b identifies an impact of 2.93% on the convenience turnover of Burnley Town Centre. Neither scenario is considered to represent a significant adverse impact.

Convenience expenditure in Burnley is heavily weighted towards shopping facilities which are located outside of the defined retail centre. Based on benchmark turnovers, in 2026, the out of centre stores are expected to turnover a combined figure of £134m, compared to Burnley Town Centre's convenience stores, which are expected to turnover £12.67m. It therefore follows that the majority of impact from the proposed discount foodstore, will also fall upon these out of centre stores.

It should also be noted that convenience retail has generally performed strongly during the Covid-19 pandemic. This is recognised by Experian Retail Planner Briefing Note 18 - October 2020, which identifies that spend per head of convenience goods increased 8.4% during 2020 (Figure 1a). It is also recognised that customers have taken to shopping locally.

In January 2021, KPMG published a report titled "The future of towns and cities post COVID-19". The report included an assessment of town and city centre vulnerability, having regard to a number of factors. Burnley was ranked as the 3rd strongest centre in the whole of the UK, having regard to the likely future impact of home working, the impact of accelerated online adoption on local high streets, and the town's cultural offer.

Furthermore, the Centre for Cities High Street Recovery Tracker (July 2021), identifies that Burnley is 4th in the UK for town centre footfall recovery from 13th February to June 2021.

The strength and resilience of Burnley Town Centre is clear from both studies.

It is therefore reasonable to assume that the majority of convenience goods retailers in Burnley have traded well over the past 12 months and that going forward - the centre should continue to perform strongly.

Burnley Town Centre is in good health and the anticipated impacts from the development proposed are of a relatively limited level given the low propensity for overlap between the goods sold at a discount foodstore and those sold within the centre. A householder survey is simply not required for this conclusion to be sensibly reached.

Indeed, in this context, the objection from MRPP does not actually suggest the proposed store would have a significant adverse impact on a defined town centre. Nor do MRPP try to suggest that the trading position of the client's store would be jeopardised by the proposal.

A householder survey is not required to reach a conclusion as to whether the scheme passes the retail impact test. The Council are properly able to reach the conclusion that the proposed development will not give rise to any significant adverse impacts on defined retail centres on the basis of the information which has been submitted.

RELATING IMPACT TO THE CHALLENGED HEALTH OF THE TOWN CENTRE

MRPP have suggested that the data collected when the applicant's most recently Burnley Town Centre Health Check was undertaken in May 2021 may have been misinterpreted.

They reference a sentence which states vacancy rates have improved considerably since the previous Town Centre assessment. By way of clarification, the previous Town Centre assessment being referred to is the 2013 Retail, Leisure and Office Assessment, which is referenced earlier within the Health Check.

Town Centre Health Checks were undertaken in support of the 2013 Retail, Leisure and Office Assessment. The Health Check for Burnley showed a vacancy rate of 19.3%. The vacancy rate, as of May 2021, equates to 16%, which quite clearly represents an improvement.

In these terms, the June 2021 Health Check of Burnley Town Centre, has had full regard to the current vacancy rates within the town, along with the other indicators that may be relevant in assessing the health of town centres. Vacancy rates are just one indicator of health and in any event, a vacancy rates of 16% when set against a national average of 14.1%, does not in itself, mean that a centre is unhealthy.

Furthermore, many of the vacant units within the centre are small units in secondary shopping areas, rather than large floorspaces in the primary shopping area. The proposed discount foodstore would not compete on a like for like basis with these units in any event.

It is considered that the centre performs well with regard to indicators of vitality and viability, with a good mix of uses, good accessibility by all means of transportation, and a good level of environmental quality and safety. The centre has an extensive range of comparison goods retailers (including national multiples), and retail, leisure and business services, which are important to the role and function of the centre. The centre's strength has also been recognised by the KPMG and Centre for Cities studies which have been referenced above.

Regard should also be had to the fact that this development proposal is linked to the redevelopment of the Pioneer Place, which forms part of Burnley Town Centre. The proposed discount foodstore will facilitate the relocation of the Reel Cinema to a more central location. This will provide the town centre with an important leisure anchor, which will improve footfall for the centre and result in linked trips to other town centre facilities. It is considered that the benefit of Reel Cinema's relocation will offset the relatively small impact that the proposed discount foodstore will have on Burnley Town Centre.

On this basis, the conclusion that the centre is in a good state of health still stands and is considered to be fully valid.

CONCLUSION

A response has been provided on retail impact matters raised within the representation of objection submitted by MRPP, on behalf of their client.

It is not considered that any information provided within the objection should prevent the Council from properly concluding that that the proposed development will not give rise to any significant adverse impacts on defined retail centres and that the development passes the retail impact test set out within Paragraph 85 of the NPPF.

Yours sincerely

Rapleys LLP

Appendix 3 – Updated Sequential Test submitted by Rapleys in response to the Objection received

SEQUENTIAL SITE ASSESSMENT (UPDATE)

Following further review the following sites have been removed from the Sequential Test as they are over 300m from the defined Primary Shopping Area (PSA) as identified on the Burnley Local Plan Proposals Map.

- i) Land at Marlborough Street/ Finsley Gate (2.66ha) - 355m from the PSA.
- ii) Trafalgar Street (0.9ha) – 419m from the PSA

The following sites have therefore been assessed:

- I. Pioneer Place (1.55ha) – edge centre
- II. Charlotte Street (0.8ha) - edge of centre
- III. Westgate (2ha) – predominantly out of centre but included as the easterly part of site lies edge of centre
- IV. Thompson Centre (0.6ha) edge of centre
- V. Land at Chapel Street (0.6ha) – edge of centre
- VI. Burnley Road, Padiham (0.4ha) – edge of centre

Pioneer Place Car Park (1.65ha)	
Image	
Site Description	The site is located within the town centre, in a mixed-use area and is currently used as a car park and storage compound.
Site Context	Adjacent to the site are Primark, Next and Curzon Square Multi-storey Car Park. Curzon Street to the east comprises small independent shops. The A679 bounds the site to the north and a retail park lies on the opposite site which includes Aldi, Sainsburys, The Carphone Warehouse, Oak Furniture Land, Iceland Sports Direct and Pets at Home.
Policy Position	<p>The site occupies an edge of centre location in planning policy terms and is allocated for a range of town centre uses under Policy TC4 Development Opportunities including retail.</p> <p>Policy TC4 states <i>“The site is located on a Key Gateway into Burnley Town Centre. Development will be expected to reinforce the site’s Key Gateway role. An opportunity exists to create a new townscape and a positive and appropriate relationship with surrounding buildings and spaces. A substantial building of high quality is envisaged to the north west corner of the site (a minimum of 3 storeys) addressing Active Way, with specific attention also given to the frontages to Active</i></p>

	<p><i>Way and Curzon Street to ensure an attractive and permeable edge to the town centre”.</i></p>
Planning History	<p>APP/2011/0052 – New retail and leisure development together with multi-storey car parking, access and landscape works – approved May 2011</p> <p>FUL/2019/0478 – Erection of mixed-use development comprising cinema, food / beverage units and retail / leisure units – approved January 2020</p> <p>FUL/2021/0029 – Erection of mixed-use development comprising cinema and no. 5 retail/food and drink units – approved 2021</p>
Suitability	<p>The site is allocated for mixed use development. The current planning permission (2021) comprises two phases with the site’s north west corner available for future development extending to (0.2ha). There is also an 8m easement associated with the River Brun that intersects the site further reducing the net developable area.</p> <p>The available land is, therefore, too small to accommodate a foodstore of the size proposed and associated car park.</p> <p>In addition, the planning policy for the site requires the development of a tall gateway building at the corner of Active Way with an active frontage to this road creating a permeable edge to the town centre. A foodstore would turn its back on Active Way to face the car park and would</p>

	not provide a building of gateway quality in terms of design, massing and layout as required by Policy TC4/1.
Availability	An application to discharge conditions has been made which demonstrates that the majority of the site is not available as it has planning permission and development is progressing imminently. Just 0.2ha is available for development.
Conclusions	<p>Only part of the Pioneer Place site is currently available for development, identified as a future development site under the current planning permission. Taking into consideration an 8m easement needed to the River Brun, the site is too small to accommodate a discount foodstore.</p> <p>In addition, Policy TC4/1 requires a high standard of design for any development in this gateway location. The site is therefore, not suitable as an alternative site for development.</p>

George Street (0.98ha)

Image



Site Description

The site comprises a previously developed, vacant site near to Burnley town centre, comprising significant variation in topography across the site.

Site Context

The site is bordered to the south by the Leeds & Liverpool Canal and to the north, east and west by commercial properties and car parks. It lies within an area known as the Weaver's Triangle which is recognised as one of the North West's most important industrial areas, comprising a Conservation Area comprising 35 listed buildings, 35 locally listed buildings and 1 scheduled monument.

Policy Position

The site occupies an edge of centre location in retail policy terms. The following policies of the Local Plan are relevant.

Policy TC5 Weavers Triangle

Policy HS1 / EMP1 Mixed Use (including education uses)

Policy HE2 Conservation Area

Policy HS1/28 Housing Allocation

Policy NE1 Biological heritage Site

Policy TC5 requires a vibrant and sustainable mix of uses. The Policy also states that:

“.....main town centre uses should be accompanied by a planning statement setting out why the proposals should be seen as an exception to the sequential approach set out in

Policy TC2 by virtue of : a) Their close association with the heritage of the Weavers’ Triangle; or b) Their contribution to securing the viable future of a heritage asset”.

Policy HS1/28 seeks to deliver 143 new homes as part of a mixed use development.

Policy EMP1/11 states that:

“Development will be expected to positively address its waterfront location; create a positive and appropriate relationship with surrounding buildings and spaces by respecting the form, scale and materials of the surrounding historic townscape; and be of high design integrity consistent with Policy SP5. Design and layout should positively address the level differences on the site and should contribute to an improved public realm consistent with the Weavers’ Triangle Public Realm Strategy SPD”. The Policy also states that:

“Particular consideration should be given to the potential impact on the Canalside Conservation Area, the setting of the Grade II Trafalgar Mill and key views to landmark heritage assets that are visible from the site”.

Planning History	<p>APP/2008/0223 – Proposed mixed use development of residential and commercial – Refused May 2008</p> <p>APP/2013/0194 – Proposed mixed use development of residential and commercial use – Approved November 2013</p> <p>APP/2018/0412 – Demolition of George Street Mill – Decision pending</p>
Suitability	<p>This site is allocated for mixed residential and commercial uses. Weaver’s Triangle is a prestigious area and George Street is a key site within it. It is a difficult site to develop as the levels across the site vary by some 12m-15m. Access is gained to Queen’s Lancashire Way (B6240) via Canal Street. Canal Street is a narrow road with a footpath only on one side. There is not sufficient road width to accommodate the vehicle movements associated with a foodstore, comprising customer vehicles and HGVs.</p>
Availability	<p>The site is partly owned by Burnley Council in a JV with Barnfield Construction. Advanced discussions are ongoing regarding the expansion of the University of Central Lancashire on this site.</p>
Conclusions	<p>George Street occupies an edge of centre location adjacent to the Leeds & Liverpool Canal. Taking policies TC5, EMP1/28 and HS1/11 in the round it is clear that a mix of land uses are proposed of high design quality to complement the site’s location in the Weaver’s Triangle; a location that comprises a number of heritage assets. The development of a standalone foodstore would be contrary to these combined policies as it would remove the site’s ability to achieve the proposed mix of uses identified in the Local Plan.</p> <p>In addition, the significant difference in site levels and narrow access renders the site unsuitable for a discount foodstore.</p>

Westgate (2ha)	
Image	
Site Description	The site is located off Westgate, a main road connecting the town centre with the motorway. The site is currently a vacant greenfield site.
Site Context	The site is bound to the north by a railway line and to the south by a car dealership. To the east is Clifton Street and to the west is the Leeds & Liverpool Canal.
Policy Position	<p>The site lies partly on the edge of and partly out of centre in retail planning policy terms with the majority of the site lying more than 300m from the PSA. For completeness it is included in this assessment.</p> <p>The site is allocated for employment under Policy EMP1/7. A building of 'landmark' quality is required to the west of the site according to the policy, respecting nearby heritage assets.</p>
Planning History	NA

Suitability	<p>The site is allocated for employment use and its shape, as a long narrow site, renders it unsuitable for the accommodation of a foodstore of the size proposed even with a flexible format, associated car park and servicing arrangement.</p> <p>The result would be that a store would be located to the west of the site in an out of centre location (455m from the PSA) with a long and narrow car park serving it.</p> <p>Following the site's allocation the Council has commissioned LCC to undertake an exercise regarding access. It is likely that access to the site will be restricted to a left turn only into the site from Westgate with an internal access road through the length of the site with egress via a left hand turn onto Westgate. Thus, reducing the site's net developable area and critical depth for development at the site's western end.</p>
Availability	<p>The land is owned by Burnley Council and LCC Highways and is available.</p>
Conclusions	<p>The majority of the site lies more than 300m from the PSA and it is allocated for employment use. This Council/ LCC owned site is available for development.</p> <p>It's shape, as a long and narrow site, renders it unsuitable as an alternative site to accommodate a discount foodstore particularly when taking into account the site's net developable area once a one way access is provided through the site.</p>

Thompson Centre, Red Lion Street, Burnley (0.6ha)

Image



Site Description

The site comprises a Council owned and operated car park with 223 spaces laying within the town's office and cultural quarter. The car park has been in use for 15 years.


Site Context

The site lies adjacent to Central Library and Town Square with a designated Conservation Area and close to 16 listed buildings. It's bound to the south by the A682, to the north by Burnley Bus Station, and to the west by Burnley Police Station.

Policy Position	<p>In retail policy terms the site occupies an edge of centre location.</p> <p>The site occupies a town centre location and is designated for employment use including B1(a), A2 and A3 uses. Policy EMP1/8 states that the site should be developed for a multi storeyed building.</p> <p>Policy EMP1/8 states:</p> <p><i>“The site should be developed for a building(s) of multiple storeys, providing accommodation for B1 (a), A2 and A3 uses. A2 and A3 uses should be limited to the ground floor only. 2) The site is prominently located on a Key Gateway into Burnley town centre and will form part of the civic square of Burnley. It is expected that any development will accord with the Burnley Town Centre Public Realm Strategy SPD and be of the highest quality of architecture and design using a palette of materials which respects the character and appearance of the surrounding listed and locally listed buildings and conservation area. The use of more contemporary materials and design features of a complementary nature will also be acceptable. The principal elevation facing the square should extensively use ashlar stone. A design competition approach would be supported on this site.</i></p> <p><i>The layout of the site should be permeable to pedestrians and enable views of the civic buildings such as the library, court and offices from Centenary Way. Active frontages are encouraged onto Place de Vitry and Centenary Way”.</i></p>
Planning History	<p>APP/2006/0933 – Proposed demolition of the William Thompson Centre, formation of surface level public ‘Pay and Display’ car park – Approved March 2007</p> <p>APP/2010/0216 – Renewal of the temporary use of land to allow parking (223 spaces) including 125 contract spaces for a period of two years – Approved June 2010</p> <p>APP/ 2012/0116 - Renewal of the temporary use of land to allow parking (223 spaces) including 125 contract spaces - Granted for period of 5 years until 1 April 2017.</p>

	APP/2016/0584 – Retention of existing car park.
Suitability	The site is Council owned and part of it has recently been sold to the Police who operate in an adjacent building. This leaves only 0.5ha of land remaining and available. The site is allocated for employment and food and drink uses and not retail. Furthermore, Policy EMP1/8 advocates the use of a design competition in bringing the site forward for development to reflect the site's gateway location and position with the town's civic square. A multi storey building is sought under the terms of the policy and in high quality materials with dual aspects overlooking the square and Centenary Way. A discount foodstore would fail the policy requirements of Policy EMP1/8.
Availability	This site is not currently being marketed for development by the Council but it is available for development.
Conclusions	<p>The site is undersized but is available.</p> <p>Development of a retail use in the form of a discount foodstore would be contrary to Policy EMP1/8 of the Local Plan. It is key gateway site on the edge of the town centre where a tall building is envisaged of high-quality design to enhance the conservation area and civic setting. For this reason, the site is regarded as being unsuitable for a standard discount foodstore particularly as this type of building typically only has one active frontage.</p>

Land at Chapel Street (0.6ha)

<p>Image</p>	
<p>Site Description</p>	<p>The site comprises vacant land at Chapel Street beyond the town centre. Extending to 0.6ha the site is broadly rectangular in shape and flat.</p>
<p>Site Context</p>	<p>Lying in an area of mixed uses the site lies adjacent to TK Maxx and Home Bargains on Burnley Retail Park. To the north is a dense residential area and the Leeds & Liverpool Canal to the east.</p> <p>The site is accessed from Adlington Street via the A682 and is regarded as a backland site, remote from the town centre with a potentially better relationship with the housing area to the north. Egress is provided via Chapel Street where it connects south bound only with the A682. Access is also provided (left turn only) from Yorkshire Street</p>

Policy Position	The site is unallocated in the Local Plan and in retail policy terms occupies an edge of centre location.
Planning History	<p>2010/0132: Proposed extension to existing retail park to provide three retail units (to replace extant Planning Permission APP/2004/1296 – Granted</p> <p>2013/0092: Erection of stand-alone coffee shop (Use A1/A4) together with amended parking, layout and associated works – Granted</p> <p>APP/ 2013/0519 Proposed extension to retail park to provide 3 retail units - Granted</p>
Suitability	<p>The site lies to the north of Burnley Retail Park with access from Church Street via Chapel Street. Access from Chapel Street is left hand turn in and out only onto Church Street.</p> <p>The site has a history of retail planning permissions for 3 retail units and a small café. The approved site layout comprises 3 retail units in a staggered configuration with a small service area for deliveries. The size of the units and service area would infer that the units would not be serviced by HGVs. When considering this site, it is clear that a discount foodstore would not sit comfortably on the site. This is due the site's squarer shape which lacks the width required to accommodate a store with adequate space for servicing without conflict with customer vehicles and pedestrians.</p> <p>Whilst the site occupies an edge of centre location it functions as an out of centre site because TK Maxx and Home Bargains turn their backs on the town centre. This is further explained by the Inspector in connection with the Examination of the Burnley Local Plan:</p>

	<p><i>“The Burnley Retail Park contains active retail uses and is close to the defined Primary Shopping Area. However, this part of the Primary Shopping Area contains secondary frontages. The retail park sits on the other side of Church Street which is a busy dual carriageway with limited crossing facilities for pedestrians. The retail units face away from the Town Centre and the wider area on this side of the dual carriageway is characterised by a greater mix of uses, including residential and industrial areas. The Local Plan is justified in defining the Town Centre to exclude this area”.(para.147)</i></p> <p>In summary, the site’s shape hinders its ability to accommodate a standalone foodstore, associated car park and service area. Whilst the site occupies an edge of centre location it’s back land location behind stores that turn their back on the town centre result in a site that is better recognised as an out of centre location in retail policy terms.</p>
Availability	The site is available for development.
Conclusions	<p>To conclude, the site is available for development. However, its shape renders it unsuitable to accommodate a discount foodstore of the type proposed.</p> <p>Burnley Retail Park turns its back on the town centre and so the development of this back land site, functioning as an out of centre location in retail policy terms, would not support the vitality and viability of Burnley Town Centre.</p>

**Burnley Road,
Padiham
(0.4ha)**

Image



Site Description

The site is flat and comprises vacant land. The site extends to 0.4ha and is an unusual shape.

Site Context

The site is bound to the east, south and west by terraced housing and to the north by Burnley Road.

Policy Position

The site occupies an edge of centre location in retail policy terms and is designated as Ecological Grassland under Policy NE1.

Planning History

APP/2018/0397 – Proposed new petrol filling station and shop – refused June 2019 (appeal dismissed)

Suitability	An appeal has recently been dismissed for a PFS comprising a convenience store on grounds of noise and disturbance. It is likely that a planning application for a larger foodstore would be refused on the same grounds. Notwithstanding this the site is too small to accommodate a discount foodstore of the size proposed. The site's net developable area is also reduced by its shape.
Availability	This site is currently for sale and is therefore available.
Conclusions	The site is unsuitable for food retailing as a result of a recently dismissed appeal where impact on residential amenity was cited as a reason for refusal. Moreover, the site is too small and its shape renders it unsuitable for a larger retail unit. For this reason, it is not a suitable alternative site to the application site.

Contents

1 Introduction	36
Instruction	36
Proposal and Application Site.....	37
Structure of Our Report.....	38
2 Planning Policy Context.....	38
National Planning Policy Framework	38
Adopted Development Plan	39
Overview in Respect of Relevant Retail and Town Centre Planning Policy.....	40
3 The Sequential Test.....	40
Requirements of the NPPF and Planning Practice Guidance	40
Area of Search and Other Parameters	42
Consideration of Sequential Alternative Sites	43
Conclusion in Respect of the NPPF Sequential Test	47
4 The Impact Test.....	48
Requirements of the NPPF and the Ensuring the Vitality of Town Centres PPG	48
The Impact of the Proposal on Existing, Committed and Planned Public and Private Sector Investment in a Centre or Centres in the Catchment Area of the Proposal	49
The Impact of the Proposal on Town Centre Vitality and Viability, Including Local Consumer Choice and Trade in the Town Centre and Wider Area	49
Conclusion in Respect of Impact	56
5 Summary and Recommendations.....	56

1 Introduction

Instruction

1.1 Burnley Council (hereafter referred to as ‘the Council’) has instructed Nexus Planning to provide advice in respect of planning application reference COU/2021/0277. The application relates to the change of use of the existing cinema building and associated external alterations.

1.2 The application is submitted by Maple Grove and was validated on 24 May 2021. It is accompanied by a Retail Statement prepared by Rapleys, the applicant’s planning agent. Subsequent to the submission of the application, Rapleys has also issued an update to the

healthchecks in June 2021, and an updated sequential assessment and supporting correspondence in July 2021.

1.3 The purpose of this appraisal report is to consider the merits of the application in terms of its compliance with retail and town centre planning policy, as set out by the statutory development plan and by the National Planning Policy Framework ('NPPF').

1.4 In doing so, we comment on the sequential and impact assessments as set out by Rapleys throughout their three submissions (the original Retail Statement and the subsequent correspondence).

Proposal and Application Site

1.5 The application site measures 0.6ha and is located within Hollywood Park to the east of the A682 (Manchester Road), Burnley. The site consists of the Reel cinema unit and associated access and parking. The application site also includes the joint parking area associated with The Star public house/ Wacky Warehouse soft-play facility, however the building itself is excluded from the site boundary.

1.6 The application ultimately seeks planning permission for the provision of a new Class E discount foodstore with associated access, parking, servicing and associated works.

1.7 The submitted documents indicate that the proposed discount foodstore will have a GIA of 2,026 sq.m, with a sales area of 1,322 sq.m, of which 1,058 sq.m will be used for the sale of convenience goods and 264 sq.m will be used for the sale of comparison goods.

1.8 Within the Introduction to the Retail Statement, Rapleys states that:

'There are currently no discount foodstores within the vicinity, with the nearest discount retailer being Aldi, located to the east of Burnley at Todmorden Road, approximately 1.5km away. Therefore, it is considered that through the redevelopment of the site, this scheme will improve the range and choice of the retail offer within the Rose Hill and Pike Hill areas of Burnley, allowing residents to shop more locally and sustainably.'

1.9 Rapleys provides some detailed background to Lidl's business model at section 4 of their Retail Statement. In particular, Rapleys state that careful consideration has been given to the design of the proposal in order to satisfy Lidl's operational requirements and to respond to the context of the site itself.

1.10 Tesco, who operates existing foodstores on the edge of Burnley town centre and within Padiham town centre, has objected to the proposals. For ease of reference, we have summarised their concerns below:

(1) The impact of the proposal on Burnley town centre; (2)

The requirement for a more rigorous sequential test; and

(3) An unsustainable business model.

1.11 We provide commentary in respect of the matters raised by the existing operators (where they relate to retail policy matters) and their advisors as part of our appraisal below.

Structure of Our Report

1.12 In the above context, our appraisal focuses on the proposal's compliance with retail and town centre planning policy as set out by the statutory development plan and by the NPPF. All other planning policy matters and other material considerations fall outside the scope of our instruction and it will be necessary for the Council to take appropriate account of such matters in its determination of the application.

1.13 Our report is therefore structured as follows:

- Section 2 sets out the retail and town centre planning policy of relevance to the application proposal;
- Section 3 considers the compliance of the proposal in respect of the sequential approach to development;
- Section 4 considers the applicant's approach in assessing the impacts arising from the proposal; and
- Section 5 provides our conclusions in respect of the compliance of the application proposal with retail and town centre policy, and our recommendations in respect of the Council's consideration of the application.

2 Planning Policy Context

2.1 We identify below the principal planning policies of relevance to retail and town centre matters.

National Planning Policy Framework

2.2 The most recent iteration of the National Planning Policy Framework ('the revised NPPF') was published in July 2021. It emphasises the Government's commitment to securing economic growth and building a strong, responsive and competitive economy. With regard to the assessment of proposals for main town centre development, the revised NPPF provides two principal national policy tests relating to the sequential approach to development and to impact.

2.3 In respect of the first of the two tests, paragraph 87 of the revised NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in accordance with an up-to-date plan.

2.4 Paragraph 87 goes on to state that:

‘Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.’

2.5 Paragraph 88 then identifies that:

‘When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.’

2.6 Paragraph 90 of the NPPF sets out a twin impact test, stating that:

‘When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq.m of gross floorspace). This should include assessment of:

- (1) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and**
- (2) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).’**

2.7 Paragraph 91 indicates that, where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors, it should be refused. However, this direction cannot extinguish the requirement set out in statute to first consider development plan policy and then all material considerations in assessing the ‘planning balance’ when making a decision.

Adopted Development Plan

2.8 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that:

‘...if regard is to be had to the Development Plan for the purpose of any determination to be made under the planning acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.’

2.9 The statutory development plan in this instance comprises the Burnley Local Plan and Policies Map, adopted in July 2018.

2.10 Policy TC2 relates to development within Burnley and Padiham town centres and sets out that the Council will seek to maintain and enhance the retail and service function of the two town centres, the boundaries of which are defined on the adopted policies map.

2.11 The Policy goes on to state that for proposals for convenience and other retailing (Classes A1 to A5), where in centre sites are not available, developments are required to be located in edge of centre locations (300 metres from the town centre boundary) and then out of centre locations.

2.12 Part (4) then states that when considering the sequential test, preference will be given to accessible sites that are well connected to the primary shopping area/town centres and applicants will be expected to demonstrate flexibility on issues such as format and scale.

2.13 In terms of the impact assessment, Policy TC2 then states that proposals which are not located within a defined centre or not allocated for retail use should be supported by an impact assessment addressing the impact on investment and the impact on the vitality and viability of centres.

2.14 The requirement for an impact assessment will apply for proposals over 1,000 sq.m in the context of Burnley town centre.

2.15 The above development plan impact test is considered to be broadly similar to that set out at paragraph 90 of the NPPF.

Overview in Respect of Relevant Retail and Town Centre Planning Policy

2.16 Paragraph 219 of Annex 1 of the revised NPPF indicates that due weight should be given to relevant policies in existing plans according to their consistency with the NPPF (the more similar the policies, the greater the weight that may be given).

2.17 In this case, Local Plan Policy TC2 indicates that the retail sequential and impact tests are of relevance to the proposal, and provides substantial detail in respect of how they should be applied in practice.

2.18 We therefore turn our attention to the proposal's compliance with the sequential and impacts tests as set out in the Local Plan, as well as general compliance with retail policies in the revised NPPF.

3 The Sequential Test

Requirements of the NPPF and Planning Practice Guidance

3.1 Paragraph 87 of the NPPF sets out the order of preference in applying the sequential approach. The first preference is for main town centre use development to locate in town centres, followed then by edge of centre locations, and only if no other suitable sites are available should out of centre sites be considered. Paragraph 88 indicates that, when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

3.2 Additional guidance on the application of the sequential approach is provided by the Town Centres and Retail Planning Practice Guidance ('the Town Centres PPG'), which was updated on 18 September 2020.

3.3 Paragraph 011 of the Town Centres PPG provides a 'checklist' for the application of the sequential test in decision taking. It indicates the following considerations:

- (1) With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. Any associated reasoning should be set out clearly.
- (2) Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
- (3) If there are no suitable sequentially preferable locations, the sequential test is passed.

3.4 In this instance, the application site is situated in an out of centre location in the context of the defined town centre, located approximately 480 metres to the south of the defined primary shopping area of Burnley town centre. As such, there is a need to consider in and edge of centre sites, as well as better connected out of centre sites, as part of the NPPF test.

3.5 In reviewing sequential alternative sites, it is first necessary to review parameters of relevance to the application of the test. As such, we first consider the matters of 'disaggregation', flexibility, and the scale of site required, before then considering the area of search for sequential alternative sites.

Suitability and Flexibility

3.6 Case law has emphasised that the 'suitability' of sequential alternatives must be considered with reference to the subject application proposal and whether the proposal (or a variant thereof, allowing for some flexibility in respect of its format) could be accommodated at a sequentially preferable location.

3.7 In particular, it is appropriate to take into account the *Tesco Stores Limited v Dundee City Council*

[2012] UKSC 13 Supreme Court judgment which gave specific consideration to the meaning of 'suitable' in respect of the application of the test.

3.8 Paragraph 38 of the Dundee judgment states that:

'The issue of suitability is directed to the developer's proposals, not some alternative scheme which might be suggested by the planning authority. I do not think that this is in the least surprising, as developments of this kind are generated by the developer's assessment of the market that he seeks to serve. If they do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism...they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest in doing so.' (Our emphasis.)

3.9 The Supreme Court has jurisdiction over England and, whilst there is a clearly need to consider its findings in the appropriate local policy context, both the Courts and the SoS have found the direction to apply the test 'in the real world' to be of some relevance to the English planning system. This is demonstrated by the 'call in' decision in respect of an application by LXB RP (Rushden) Limited to provide for large-scale retail-led development at land adjacent to Skew Bridge Ski Slope at Rushden Lakes (Planning Inspectorate reference APP/G2815/V/12/2190175).

3.10 Paragraph 8.46 of the Rushden Lakes Inspector's Report states that:

'It is important to bear in mind that the sequential test as set out in NPPF require applications for main town centre uses to be located in town centres and it then runs through the sequence, edge and then out-of-centre. This makes good the very simple point that what the sequential test seeks is to see whether the application i.e. what is proposed, can be accommodated on a town centre site. There is no suggestion here that the sequential test means to refer to anything other than the application proposal. So Dundee clearly applies to the NPPF.' (Inspector's emphasis.)

3.11 Given the above, it is evident that sequential alternatives must be viewed in the context of whether they meet the broad 'real world' requirements of a development of this nature.

Area of Search and Other Parameters

3.12 In terms of the need to demonstrate appropriate flexibility in respect of the scale of development, Rapleys provide some definitive thresholds for the purpose of the sequential search for alternative sites. These include:

- A minimum total site area of 0.5ha;
- A site that can accommodate a minimum store size of 1,770 sq.m (GIA);
- A site that can allow for the safe manoeuvring of customer vehicles and adjacent surface level car parking;

- A prominent site with the ability to attract passing trade;
- A site that can accommodate a service area and associated HGV manoeuvres; and
- A single storey, open and unrestricted sales floor area, which benefits from a generally level/flat topography, or which has the ability to be developed as such.

3.13 Rapleys state that Lidl foodstores generally serve a relatively localised catchment area with the stores primarily serving a catchment equating to no more than a five minute drivetime from a site. In this case, the five minute catchment area includes Burnley town centre. However, Rapleys has also undertaken a search for sites within Padiham town centre.

3.14 We do consider that concentrating the area of search within Burnley and Padiham is a suitable approach. We also agree that sites must be assessed based on whether they are able to accommodate a Class E foodstore of a broadly similar format to that proposed, together with appropriate access and parking provision (allowing for flexibility in respect of matters such as format and scale).

3.15 Six sites as part of the sequential approach both of which are located within or in proximity to Burnley and Padiham town centres. We are unaware of any additional sites which need assessing as part of the sequential assessment. The sites are as follows:

- Pioneer Place;
- Charlotte Street;
- Westgate;
- Thompsen Centre; □ Land at Chapel Street; and □ Burnley Road, Padiham.

Consideration of Sequential Alternative Sites

3.16 We provide our analysis of the six sites identified by Rapleys below.

Pioneer Place, Burnley

Availability

3.17 Pioneer Place measures approximately 1.7ha in total and is situated in an edge of centre location in planning policy terms. The site is allocated in the defined town centre under Policy TC4

for a mixed-use gateway site, suitable to accommodate a high quality, tall gateway building on the corner of Active Way.

3.18 The site is subject to a recent planning permission for the erection of a mixed-use development comprising a cinema and five food and drink units (reference FUL/2021/0029) and applications are currently being determined by the Council in respect of the discharge of conditions.

3.19 Rapleys refer to the remaining 0.2ha of the site which is available for redevelopment, with the remainder not considered to be available in light of the extant consent. We agree with Rapleys that in light of the extant permission for extensive redevelopment of the majority of the site, that it is not considered to be available for development as a whole.

Suitability

3.20 Rapleys state that of the development site, 0.2ha is available for development. In light of the remaining available developable area, it is not considered that the site is considered suitable to accommodate the proposed development, even when applying a sufficient degree of flexibility and without untenably impacting on the proposal.

Overall Conclusion

3.21 Nexus is satisfied that the site is not available or suitable to accommodate the proposed development.

George Street, Burnley

Availability

3.22 The site comprises a previously developed, vacant site near to Burnley town centre, comprising significant variation in topography across the site. The site is bordered to the south by the Leeds & Liverpool Canal and to the north, east and west by commercial properties and car parks. It lies within the Weaver's Triangle which is recognised as one of the North West's most important industrial areas, comprising a Conservation Area comprising 35 listed buildings, 35 locally listed buildings and 1 scheduled monument.

3.23 The site measures approximately 1.0ha and is situated in an edge of centre location in planning policy terms. Historically, the site has been subject to planning permissions for mixed-use developments comprising both residential and commercial uses, with the latest being approved in November 2013 (reference APP/2013/0194).

3.24 Rapleys state that the site is partly owned by Burnley Council in a JV with Barnfield Construction and that advanced discussions are ongoing regarding the expansion of the University of Central Lancashire on the site.

3.25 Following further discussions with the local authority, we understand that a masterplan has now been produced and that the site is subject to a £20m levelling up fund bid which was submitted last month, with a decision due by the autumn.

3.26 In light of the above and the progressed proposals for the site, we are satisfied that it is not available for the redevelopment for a foodstore.

Suitability

3.27 In terms of the site's suitability to accommodate the proposal, Rapleys state that the site is allocated for mixed residential and commercial uses, which are to be of high quality design to complement the site's location within the Weaver's Triangle.

3.28 In light of the site's allocation in the local plan for a key gateway development, which provides for a high quality architectural scheme which reflects the surrounding area and conservation area, and the allocated uses within the designation, we do not consider that the redevelopment of the site for a single storey discount foodstore and associated parking would be an appropriate use.

Overall Conclusion

3.29 Nexus is satisfied that the site is not available or suitable to accommodate the proposed development.

Westgate, Burnley

Availability

3.30 The site is bound to the north by a railway line and to the south by a car dealership. To the east is Clifton Street and to the west is the Leeds & Liverpool Canal. The site measures approximately 2ha in total and is currently a vacant greenfield site.

3.31 The site is allocated for employment uses within the adopted development plan, specifying a requirement for a 'landmark' building to be situated to the west of the site.

3.32 Rapleys state that the site is owned by Burnley Council and LCC Highways and is considered to be available. We agree with this conclusion.

Suitability

3.33 In terms of suitability, Rapleys state that in light of the shape and size of the site, it is considered to be unsuitable to accommodate a foodstore with associated parking and servicing, even when applying a sufficient degree of flexibility.

3.34 Nexus agrees that although the total site area would be suitable to accommodate the proposal, in light of the site's configuration, we do not consider it suitable to accommodate a foodstore and its associated works without impacting on the overarching business model and format.

Overall Conclusion

3.35 Nexus is satisfied that although the site is considered to be available, it is not suitable to accommodate the proposed development.

Thompson Centre, Red Lion Street, Burnley

Availability

3.36 The site comprises a Council owned and operated car park with 223 spaces laying within the town's office and cultural quarter. The site measures approximately 0.6ha and is situated within a designated conservation area, in an edge of centre location in planning policy terms. The car park has been in use for 15 years.

3.37 Rapleys state that the site is not being currently actively marketed but that for the purposes of the sequential test, it is considered to be available. We agree with this conclusion.

Suitability

3.38 The site is allocated under Policy EMP1/8 for a mix of uses, including Classes B1(a), and Classes A2 and A3 at ground floor (now covered by Class E). It is currently in use as a car park, but the future redevelopment of the site does form part of the wider aspirations for the town centre.

3.39 In light of the site's allocation in the local plan for a key gateway development, which provides for a high quality architectural scheme which reflects the surrounding area and conservation area, and the allocated uses within the designation, we do not consider that the redevelopment of the site for a single storey discount foodstore and associated parking would be an appropriate use.

3.40 Furthermore, the policy seeks active frontages on more than one side of the site, which would not be feasible to achieve by a discount foodstore.

Overall Conclusion

3.41 Nexus is satisfied that although the site is available for the purposes of the sequential assessment, it is not considered to be suitable to accommodate the proposed development.

Land at Chapel Street, Burnley

Availability

3.42 The site comprises vacant land at Chapel Street beyond the town centre. Extending to 0.6ha the site is broadly rectangular in shape and flat. The site is unallocated in the Local Plan and in retail policy terms occupies an edge of centre location in planning policy terms.

3.43 The site is being actively marketed and is therefore considered to be available for the purposes of the assessment.

Suitability

3.44 A number of planning permissions have been granted on the site for a mix of commercial uses. The most recent permission was granted in 2013 for the extension of the retail park to create three additional units (reference APP/2013/0519). However, none of the schemes have come forward and the site still remains vacant.

3.45 The site is not situated in a prominent location and is 'tucked away' behind other existing commercial units. Whilst it is of a suitable size to accommodate the proposal, we do not consider it is in a suitable location to meet the needs or requirements of a discount foodstore, due to its lack of prominence or frontage from key arterial routes.

Overall Conclusion

3.46 Nexus is satisfied that although the site is being marketed and is therefore available, it is not considered to be suitable to accommodate the proposed development.

Burnley Road, Padiham

Availability

3.47 The site is flat and comprises vacant land. The site measures approximately 0.4ha and is situated in an edge of centre location in the context of Padiham town centre.

3.48 The site is currently being actively marketed and is therefore considered to be available.

Suitability

3.49 The site, measuring 0.4ha and comprising an irregular shaped parcel of land, is considered to be unsuitable to accommodate the proposal, even when applying a sufficient degree of flexibility. We also note Rapleys' identification of the historic dismissal at appeal for a petrol filling station, where one of the Inspector's reasons for dismissal was the impact of noise, traffic and activity from the proposed development. Having reviewed the decision, we agree with Rapleys that overcoming these issues would prove difficult and therefore consider the site is unsuitable for the proposed development. In this regard, the Inspector states at paragraph 14 that:

'However, the effect of increased comings in and goings of customers and the general disturbance that this would have upon residents of those properties that surround the site on three sides would be significant. The proposal would introduce a considerable amount of vehicle movements in and out of the development site, with associated activity from customers and noise from car doors slamming, blaring music and starting of vehicles. This would be throughout the day and into the night, with early morning and late-night opening hours.'

Overall Conclusion

3.50 Nexus is satisfied that the site is not suitable to accommodate the proposed development.

Conclusion in Respect of the NPPF Sequential Test

3.51 We have reviewed the sites and locations considered by the applicant in its submission and do not believe that any can be considered to be both available and suitable to accommodate the application proposal, even when applying a sufficient degree of flexibility.

3.52 We are unaware of any other site which is 'in centre', 'edge of centre', or better connected to a centre, that could support the application proposal in practice.

3.53 Given the above, we find that the application proposal conforms to the requirements of the sequential test as articulated by Policy TC2 of the Local Plan and by paragraphs 87 and 88 of the NPPF.

4 The Impact Test

Requirements of the NPPF and the Ensuring the Vitality of Town Centres PPG

4.1 Paragraphs 90 and 91 of the NPPF indicate that application proposals for retail and leisure development should be refused planning permission where a significant adverse impact is likely to arise from development.

4.2 In assessing the significance of impacts arising from development, it is necessary to reflect upon the advice set out in the Town Centres PPG. In this regard, paragraph 017 states that:

‘A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example, in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.’ (Our emphasis.)

4.3 It should also be recognised that impacts will arise with all retail developments, but that these will not always be unacceptable, not least because development often enhances choice, competition and innovation. It is therefore necessary to differentiate between those developments that will have an impact and those that will undermine the future vitality and viability of established centres, i.e. have a ‘significant adverse’ impact.

4.4 Paragraph 016 of the Town Centres PPG is also of some relevance in considering how the impact test should be applied. It states that:

‘As a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector (e.g. it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with their most comparable competitive facilities.’

4.5 The two key impact tests identified by paragraph 90 of the revised NPPF are considered below. The tests relate to:

- the impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).

4.6 The compliance of the proposal with each of the two strands of the test is set out below.

The Impact of the Proposal on Existing, Committed and Planned Public and Private Sector Investment in a Centre or Centres in the Catchment Area of the Proposal

4.7 As part of the impact assessment, Rapleys include a review and analysis of existing and committed investment within the defined centres within the catchment as part of the overarching impact tests. In particular, Rapleys refer to the ongoing investment within Burnley town centre which includes a significant investment programme aimed at attracting new retail, leisure and other businesses.

4.8 Such investment includes new university accommodation, public realm improvements and the new Pioneer Place development which will include a new cinema, food and beverage offer and a public plaza. Furthermore, there are plans for the redevelopment of Burnley's Market Square to help deliver a revitalised offer and attract a wider range of tenants.

4.9 Overall, and as Rapleys identify, there are a number of positive investment proposals within the town centre which will assist in diversifying the offer, and improving the wider town centre environment, including the historic areas. Given the nature of the proposal at the former cinema site (which will be relocated to the town centre as part of the plans), we do not consider that the scheme will have a significant impact on the future realisation of the investment within Burnley town centre.

4.10 We are not aware of any other investment in the other defined centres within the catchment which could be impacted on as a result of the proposal.

4.11 In light of the above, we do not consider that there is any investment within the defined centres which could be impacted upon as a result of the proposal, and therefore we conclude that proposal conforms to the requirements of the first strand of the national impact test.

The Impact of the Proposal on Town Centre Vitality and Viability, Including Local Consumer Choice and Trade in the Town Centre and Wider Area

4.12 The applicant sets out its approach to trade diversion at Section 7 of the Retail Statement, and at the Tables provided at Appendix 2. This is also supplemented by the subsequent June and July correspondence, including an updated quantitative impact assessment.

4.13 At the outset, we accept that the potential comparison goods floorspace associated with the proposal is limited and that the expenditure attracted to this element of the floorspace would have been spent at a number of destinations within the wider area (without any material level of diversion occurring at any). We are therefore satisfied that any impacts arising from the comparison goods floorspace on defined centres would be very limited in practice.

4.14 We set out below our appraisal of the principal inputs and assumptions relied upon by the applicant in assessing the impact of the convenience goods floorspace below.

Existing Retail provision within the Defined Centres

4.15 In order to assess the potential impact a proposal may have on a town centre, the applicant should firstly assess the existing performance and overall health of the defined centres within the settlement.

4.16 A 'health check' of the vitality and viability of the defined centres within the identified catchment is a good basis upon which to assess the potential retail impact of a development. It can be the case that if a centre is in a poor state, (i.e. vacancy levels are above average, numbers of national multiple retailers are below average, footfall is low, and the overall environment within the town centre is poor), then impacts can be accentuated. Any impacts, even on a seemingly 'healthy' centre, need to be carefully assessed on a case by case basis.

4.17 The impact on a centre is not measured solely by the level of quantitative trade diversion of a proposal in monetary terms. Whilst a quantitatively based trade diversion assessment is important to understand the likely impact of a proposal on a town centre, it is also important to look beyond this and to consider the potential impact of a proposal in respect of its ability to adversely affect trade, to diminish footfall across a town centre, or to attract current or potential future tenants away from the town centre.

4.18 In this regard, Rapleys provide a healthcheck of Burnley and Padiham town centres and the smaller district centres within the catchment area.

4.19 We summarise Rapleys' conclusions in respect of the current health of Burnley town centre below. In particular, we welcome Rapleys' updated healthcheck assessments to reflect the latest position within the centres, rather than relying on the initial 2018 diversity of use figures presented within their Retail Statement which would not have been an appropriate basis upon which to assess the implications of the proposed development.

Burnley Town Centre

4.20 Burnley town centre is the primary retail destination in the authority area, and as such performs a sub-regional role for retail, service and leisure needs. The town centre is located approximately 200 metres to the north of the application site. The centre itself is considered the benefit from a good standard of pedestrian accessibility, which has been improved by recent public realm improvements. In addition to this, accessibility via public transport is also considered good. The public realm improvements and historic and civic buildings in Burnley town centre create a quality retail environment, however the overall environmental quality of the centre is considered to reduce in less central locations.

4.21 At the time of Rapleys' site visit (the latest being June 2021), a total of 86 vacant units were observed. This figure equates to approximately 16% of all units in the town centre. However, when residential uses are discounted from the diversity of uses within the town centre, the 86 vacant units account for 17% of units (out of 513 units). In both cases, the vacancy rate is above the current national average.

4.22 In this regard, Rapleys note in their July 2021 correspondence that many of the vacant units within the town centre are small and located in peripheral areas of the town centre, rather than the larger units within the primary shopping area.

4.23 Notwithstanding this, Burnley is considered to accommodate a reasonably diverse range of uses and operators and benefits from a vacancy rate lower than the national average. Comparison operators account for 24% of all units within the town centre, with service operators accounting

for over half of all units Burnley. Respectively, retail, leisure and financial and business services account for 16%, 19% and 16% of all units.

4.24 Beyond the defined boundary of Burnley town centre are a number of convenience operators, including Sainsbury's, Aldi, Tesco and Iceland. To the north of the town centre, and in close proximity to Burnley Central train station, Sainsbury's, Aldi and Iceland (in addition to an Asda located slightly further to the north) are considered to be relatively well located to the town centre, accessible via controlled pedestrian crossing points on Active Way. Tesco Extra, to the south, is less accessible due to the lack of crossing points and distance from the town centre.

Padiham Town Centre

4.25 Padiham town centre is a relatively limited centre, located approximately 5 kilometres to the north west of the application site. The centre itself is focused around a diverse service offer, with retail and leisure services accounting for 31% and 32% of all units respectively. Nonetheless, Padiham town centre is considered to have a relatively good mix of uses and operators. Vacancies account for 14% of all units, a figure below the national average for vacancies.

4.26 The units within the local centre are generally relatively limited in size, this reducing their appeal to national multiples. Nonetheless, the centre benefits from reasonably high levels of pedestrian activity and a good overall standard of environmental quality. The centre is considered to be easily accessible to the Tesco superstore to the east of the town centre, with considerable amounts of activity being observed between the retail core and the supermarket and its car park.

4.27 In respect of the district centres within the catchment area, we summarise Rapleys findings below:

- **Accrington Road district centre** comprises 28 units, of which four (14%) were vacant at the time of Rapleys' site visit in May 2021. The centre is dominated by service uses, particularly leisure services, which account for 29% of all units. The convenience offer, although limited, is relatively strong, with three units comprising a Premier store, Bargain Food and Drink and Farmfoods.
- **Colne Road district centre** had 11% of units being vacant. It is the largest district centre, with 111 units within the defined boundary. As such, it has a relatively diverse range of operators including convenience stores such as Bargain Booze and One Stop. In addition to this, the diverse range of service operators are considered capable of providing for the local community.
- The convenience goods offer at **Harle Syke district centre** comprises an independent convenience store and a Spar. This offer, alongside a relatively diverse range of services operators, is considered capable of meeting the day-to-day needs of the local community. At the time of Rapleys' visit, no vacant units were observed.

- **Lyndhurst Road district centre** is a relatively small centre, comprising a number of converted terraced properties in a linear formation along Lyndhurst Road, the district centre offers a reasonable provision of retailers and services, which are considered capable of meeting the day-to-day needs of the local community. However, the convenience provision in the centre is currently limited to a single, small store that does not provide a wide range of goods. Notwithstanding this, there are no vacant units observed within the district centre.
- **Rosegrove district centre** is a moderately sized centre comprised of a relatively strong convenience offer, underpinned by Premier convenience and Londis. The centre had a total of two vacant units at the time of Rapleys' visit in May 2021, equating to 6% of all of the units in the centre.
- **Pike Hill district centre** is anchored by convenience uses, with a Spar located in the defined boundaries and a Tesco Express approximately 100m to the north west of the centre. Alongside a number of service operators, including a Post Office, Pike Hill provides a reasonable range of retailers and services suitable to serve the needs of the local community. At the time of Rapleys' visit there were no vacant units in the centre.
- Located 600 metres to the west of the application site, **Coal Clough Lane district centre** comprises 19 units, of which none were vacant at the time of the survey. The operators are relatively diverse, and include four convenience operators which are anchored by a Spar convenience store.

4.28 We are comfortable with Rapleys' assessments of the health of the defined centres within the catchment. It is on this basis that we continue to consider the proposal's potential impact on centres.

Proposed Catchment Area

4.29 Rapleys states at paragraph 4.24 of the Retail Statement that they have adopted a catchment area equating to a five minute drivetime from the application site. At paragraph 7.10, Rapleys then state that the catchment reflects the fact that discount foodstores provide a neighbourhood shopping facility reflecting their comparatively limited offer. The catchment area covers Burnley town centre, Padiham town centre and eight district centres, details of which are provided above.

4.30 Whilst we note that Lidl stores have a limited comparison offer, there are occasions when such stores do draw trade from a wider area than a five minute catchment. This is particularly the case in more rural areas. However, Burnley is an urban area and having reviewed the existing shopping patterns identified in the 2014 Study and the existing foodstore provision within the

area, we agree that the drivetime catchment area represents the core catchment for the proposed foodstore.

Assessment Period

4.31 The applicant undertakes its impact assessment based on a test year of 2026. In this regard, we note that paragraph 017 of the Town Centres PPG directs that the design year for impact testing should be the year that the proposal has achieved a 'mature' trading pattern. It states that this is conventionally taken to be the second full calendar year of trading after the opening of a new retail development. We consider that a development of this nature could commence in 2021 or early 2022 and likely be completed and trading in 2023 or 2024.

4.32 As such, we would typically consider 2024 or 2025 to be an appropriate test year but accept that 2026 is acceptable for the purposes of the assessment given that the impact levels are unlikely to be materially different and therefore altering the assessment period by one year is unlikely to be consequential in this instance.

Baseline Position

4.33 Initially, Rapleys' Statement adopted a hybrid approach to assessing the impact using both benchmark turnovers of the existing convenience provision within the catchment as the baseline position, alongside survey derived turnovers for some existing, rather than the survey derived turnovers from the Council's 2014 retail evidence base. Undertaking the quantitative assessment in this way does not provide the baseline position from which an understanding of how stores are trading and where existing stores draw their trade from can be applied. This approach does not allow for detailed consideration of the proposal's trade draw and resultant trade diversion to be undertaken.

4.34 In light of the above, we requested that Rapleys revisited the assessment to include the survey derived turnovers of the existing stores using the Council's latest evidence base figures. Furthermore, as already undertaken by Rapleys, it was important that the assessment took account of the trading implications of stores which have come forward subsequent to the preparation of the retail study, principally the Lidl commitment in Padiham.

4.35 Subsequent to the above, Rapleys' have updated the quantitative impact assessment adopting this approach, using the turnovers from the Padiham Retail update March 2014 at a 2018 Price Base, and the growth rates from the latest Experian Retail Planner Briefing Note 18 (October 2020) to reflect the 2020 Price Base used elsewhere in the assessment.

4.36 The updated Table 6B (issued in July 2021) also includes the cumulative impact taking account of the committed Lidl store in Padiham (the household survey which supports the 2014 update already takes account of the shopping patterns associated with the Tesco in Padiham town centre).

4.37 Whilst we acknowledge comments raised by 3rd party objectors in respect of the age of the Council's evidence base, we do consider that although there have been some changes to the offer within the local area, the retail study is still an appropriate basis on which to base the assessment.

4.38 Given the above, we accept that the applicant's approach in estimating the baseline position allows for an appropriate assessment of the convenience goods impacts arising from the proposal and are pleased that Rapleys have provided an update to the assessment to respond to our, and 3rd party concerns.

4.39 We accept that the focus for the trade diversion exercise should be convenience goods expenditure and that the comparison goods turnover of the foodstore is unlikely to be an issue (subject to convenience goods impacts being acceptable).

Turnover of the Application Proposal

4.40 Rapleys has calculated the estimated convenience turnover of the proposed foodstore on the basis of Lidl occupying it. In this regard, Rapleys have adopted an average sales density of £11,400 per sq.m and multiplied this by the net convenience sales area of 1,058 sq.m. As a result, Rapleys calculate that the 2021 convenience floorspace turnover of the proposed store is £12.1m, falling slightly to £11.7m at 2026.

4.41 The sales density applied is considered broadly consistent with our understanding of Lidl's company performance at the relevant year in respect of convenience goods floorspace, and the estimated turnover of the floorspace is considered to be appropriate.

Patterns of Convenience Goods Trade Diversion

4.42 At the outset, it is important to note that Nexus does not agree with Rapleys' assertions that the impact assessment based on benchmark turnovers of existing stores within the catchment is an appropriate basis from which to calculate the potential impact of the development.

4.43 In this regard, it is key that to fully understand the implications of a development on the existing performance of stores, we must first understand how these stores are performing. Adopting a benchmark turnover does not allow for any such assessment or understanding.

4.44 Reviewing the 2014 Council evidence base, and considering the site is located within Zone 1 which principally covers the town centre, we can see that the principal foodstores serving residents' main food shopping needs are the Tesco Extra (attracting 28.1% of main food shopping trips from Zone 1 residents), followed by the Asda on Princess Way (attracting 27.0% of main food shopping trips). The Sainsbury's on Active Way is also an important store serving main food shopping trips. Indeed, these three stores also serve important roles for residents located in Zones 2 to 6 inclusive, indicating the draw of these stores across the authority area as a whole.

4.45 In terms of trade diversion, Rapleys assume that the highest level of diversion to the proposed store will be taken from the edge of centre Tesco Extra store, from which they assume 20% will be diverted. This is followed by the Asda at Princess Way, from which Rapleys estimate 13% of trade will be diverted, followed by the Sainsbury's store. In total, Rapleys assume that approximately 3% of the proposal's turnover will be diverted from town centre operators within the primary shopping area of Burnley. The remaining diversion is then estimated to be distributed between the remaining edge and out of centre stores, with approximately 1% diverted from Padiham town centre, Cole Road district centre and Accrington Road district centre and significantly less from other defined centres. We consider the diversion assumptions applied by

Rapleys to be appropriate and reflective of how we consider the proposed store to trade in practice. In particular, and in light of the existing shopping patterns established in the local area, we consider the higher levels of trade diversion to also be felt on the larger edge and out of centre stores which offer a broadly similar qualitative offer to that within the proposed store.

4.46 Rapleys estimate that the highest level of cumulative trade diversion impact (when also taking account of the committed Lidl store in Padiham) is expected to be felt on the Lidl store on Colne Road in Burnley at -17.3% at 2026 and the Aldi store on Todmorden Road, at -15.8% at 2026, In both cases, Rapleys have calculated the store turnovers based on benchmark averages as survey derived turnovers were unavailable. In these cases, it is likely that the stores are performing above benchmark and in any event, these stores are situated in out of centre locations and do not afford any policy protection.

4.47 In terms of the Tesco Extra store located on the edge of Burnley town centre, Rapleys estimate that the cumulative impact will be approximately -10.7% and on other town centre operators, Rapleys estimate the cumulative impact to be approximately -5.4%.

4.48 Turning firstly to the impact on in-centre stores within Burnley town centre, we do not consider this to be at a level which would have a significant adverse impact on the vitality and viability of the centre or indeed jeopardise the future offer within the centre. In this regard, the centre's convenience offer is focused principally around operators such as Iceland, Marks and Spencer, Farmfoods and a range of smaller independent operators. Although some trade will likely be diverted from these operators, we are not of the view that it would be at a level which could have a significant adverse impact on the centre.

4.49 As such, the key consideration here is the impact of the proposal on the edge of centre stores, and principally the Tesco Extra and the Aldi stores. Whilst we consider there to be the potential for the loss of some trips between the two (and in particular between the Tesco and the town centre), we are not of the view that this would be at a level which would have a significant adverse impact on the town centre and the overall vitality and viability.

4.50 This conclusion is reached given the wider retail, leisure and service offer in the centre which we envisage will continue to draw residents and visitors into the centre, which the proposed foodstore will not replicate. Furthermore, consideration has also been given to the pedestrian route from the primary shopping area to the Tesco Extra, through the peripheral areas of the centre (albeit we note it does take you past the bus station) and the fact that the actual store entrance to the Tesco Extra is located further along to the east along the A682, which of course also requires pedestrians to cross the major ringroad around Burnley town centre.

4.51 Furthermore, given that the proposed foodstore would have a relatively narrow offer and residents would still have the need to visit defined centres in the catchment to access other goods and services, then linked-trips will still likely take place on foot or by car as part of a single journey.

4.52 We have also had regard to the general impact of the COVID-19 pandemic on the defined centres within Burnley. However, it is clear that the current challenging market conditions are of greatest consequence to the comparison goods and leisure sectors, and we believe that the

convenience goods function of the centre, and in particular Burnley and Padiham town centres, is more resilient and less susceptible to such pressures, and therefore any impacts arising from the proposal will unlikely be exacerbated in light of the current implications of the pandemic.

4.53 In this regard, we note the higher than average vacancy rate within Burnley town centre and the implications vacant units have in terms of the wider vitality and viability of the centre. However, a number of these units are small scale and located in secondary areas of the centre, and we do not consider that the proposal will further add to this vacancy rate given that the principal diversion of expenditure will be from other existing edge and out of centre foodstores within the catchment. Furthermore, there are some positive signs of investment within Burnley town centre which will considerably assist in securing the future vitality and viability of the centre.

4.54 Furthermore, planning policy is supportive of retail development which improves local customer choice and accords with sustainable development principles, providing no 'significant adverse' impacts occur at town centre locations. Most particularly, this is evident through paragraph 90 of the NPPF which requires a local planning authority to consider changes in consumer choice across the retail catchment area as a whole when determining planning applications for retail uses. As such, we are of the view that although the identified impact on the existing Tesco store (which is an 'in centre' location in planning policy terms), is considered to be high, and certainly higher than that which has been adopted by Rapleys, we are of the view that the impacts would not be significant adverse, and that the positive benefits in terms of increasing consumer choice within the town should also be taken account of when weighing up the overarching merits of the proposal.

Conclusion in Respect of Impact

4.55 As we set out above, we are not aware of any planned or committed investment which is likely to be impacted on as a result of the proposed development. We therefore consider the proposal to comply with the first part of the impact test.

4.56 We have examined the applicant's retail impact assessment in detail, and do not believe that any centre would be the subject of an unacceptable impact.

4.57 Given the above, we conclude that the application proposal accords with the requirements of both strands of the NPPF impact test and Local Plan Policy TC2 insofar as it relates to impact.

5 Summary and Recommendations

5.1 Burnley Council (hereafter referred to as 'the Council') has instructed Nexus Planning to provide advice in respect of planning application reference COU/2021/0277. The application relates to the change of use of the existing cinema building and associated external alterations.

5.2 The application is submitted by Maple Grove and was validated on 24 May 2021. It is accompanied by a Retail Statement prepared by Rapleys, the applicant's planning agent. Subsequent to the submission of the application, Rapleys has also issued an update to the healthchecks in June 2021, and an updated sequential assessment and supporting correspondence in July 2021.

5.3 The purpose of this appraisal report is to consider the merits of the application in terms of its compliance with retail and town centre planning policy, as set out by the statutory development plan and by the National Planning Policy Framework. Our appraisal concentrates on the retail and town centre policy matters and does not comment on the other development plan policy guidance of direct relevance to the application site and proposal.

5.4 Paragraph 91 of the NPPF indicates that planning applications for retail uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where they fail to satisfy the requirements of the sequential approach or are likely to result in a significant adverse impact.

5.5 In respect of the sequential approach to development we have reviewed all of the sites identified by the applicant and do not believe that any are both available and suitable to accommodate the application proposal, even allowing for appropriate flexibility. We are unaware of any other sequential sites offering realistic potential to accommodate the proposal and, as such, find that it accords with the requirements of paragraphs 87 and 88 of the NPPF.

5.6 With regard to the first part of the NPPF impact test, we do not believe that the grant of planning permission for the proposed development would lead to a significant adverse impact in respect of existing, committed and planned public and private sector investment.

5.7 In terms of the second part of the test (relating to the vitality and viability of town centres), our review of the submitted retail impact assessment has confirmed that a large proportion of the impact arising from the proposal would occur at edge and out of centre stores. In assessing the potential implications of the proposal, we have also taken account of the potential for the loss of linked-trips between edge of centre foodstores and the defined town centre of Burnley.

5.8 Taking the above into account and in terms of defined centres, the greatest impact would occur at Burnley town centre at 2026.

5.9 We have assessed the potential impact of the proposal on the town centre, and consider that the impact on the existing offer would not be significant. The proposal therefore accords with the NPPF impact test as set out at paragraph 90.

Appendix 5 – Lancashire County Council Highways response

Development Control
Burnley Borough Council

Tel
Email

Your ref COU/2021/0277

Our ref

Date 2nd August 2021

Dear Sirs

Application no: 2021/0277

**Address: Reel Cinema Manchester Road Burnley Lancashire BB11
2EG**

**Proposal: Proposed partial demolition of existing building and
external alterations to form food store (Class E) and
associated servicing, landscaping and re modelling of car
park with access and egress from Manchester Road.**

I refer to the above proposal and would like to thank you for the opportunity to provide further highway comments from those previously provided. Lancashire County Council (LCC) as the Local Highway Authority is responsible for providing and maintaining a safe and reliable highway network. With this in mind, the present and proposed highway systems have been considered to highlight areas of concern that potentially could cause problems for the public (familiar and unfamiliar), cyclists, public transport, motorists and other vehicles in and around the area of the development.

Executive Summary and Recommendation

There were several concerns with the analysis, safety and designs previously presented, as a consequence the level of impact and suitability of that proposed was unknown (at that time).

I can now confirm that the new proposed all movement signalised junction and other changes to the highway network have been positively concluded. In addition, internal

layout issues have been resolved, however a number need to be controlled by suitably worded planning conditions.

Lancashire County Council as highway authority is satisfied that the development can integrate into the environment and impacts be managed within and in the surrounding network.

There have been several revisions to the initial junction layout, which have made it acceptable. Additional modelling has been undertaken to ensure that the new junction will not have *'an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*.

With respect to this application we would not wish to raise any objections to the application proposed.

1.0 Site Location

The site is served off Manchester Road opposite Halstead Street at a location which currently includes a cinema (to be demolished) and *'The Star'* public house/carvery.

2.0 Development Description.

Partial demolition of an existing cinema building and external alterations to form the proposed food store with associated servicing, landscaping and re modelling of the existing car park with signalised access and egress from Manchester Road and other changes to the existing highway network as a consequence.

3.0 Motorised Access and Sustainable Provision

The access arrangement is an all movement 4 arm signalised junction between the site, Manchester Road and Halstead Street. The junction includes controlled pedestrian provision on all arms of the junction satisfying their needs.

The existing exit from the site to be closed to allow for the internal servicing of the new store, the kerb reinstated to full height, and footway reconstructed where any vehicle crossover(s) are redundant.

The agreed layout in principle is shown on SCP/200788/D13. The layout has been reviewed through an independent safety audit; minor matters highlighted as part of the audit have been addressed through the SCP designer's response.

3.1 Wider connectivity (highway changes)

To support the new signalised junction highway changes are required on Manchester Road beyond the junction to support highway safety and lane discipline. These include:

- Kerb changes to the splitter island between the carriageways on Manchester Road to improve vehicle positioning and safety.
- Simple crossing in the vicinity of Piccadilly Road
Note: that delivered will not be as per the SCP layout SCP/200788/D13.
- Minor changes at the roundabout with Centenary Way, Manchester Rd and Trafalgar Street including:
 - 2 lane exit from the roundabout onto Manchester Rd.
 - 2 lane approach from Manchester Rd (N) the principle is indicated on SCP/200788/D15.
Note: Lane widths will change from that indicated on the layout and be determined at the detail design stage.
- Bus stops and shelters on Manchester Rd to be reviewed and if required to be provided/updated, kerbs to be updated and be raised. All to be quality bus standard.
Note: the westbound bus stop has been slightly relocated

3.1.1 Traffic Management

- Traffic Regulation Orders on Manchester Rd and other isolated locations in the vicinity of the works prohibiting parking, the concessionary Taxi Rank on Halstead Street will need to be removed or relocated.
Note: All TRO changes to be progressed as part of the detail design process.
- Review the use of additional loop detectors on approaches to the roundabout. Locations to be determined during detail design. Review the opportunity to link signals to the pedestrian crossing on Trafalgar Street linkage to be determined during detail design
- Improved signing on Centenary Way to better maintain lane discipline reducing vehicles making last minute lane changes the principle is indicated on SCP/200788/D15.
Note actual signs detail and location to be determined at detail design stage.
- Additional keep clear road marking on the roundabout and other road markings at the roundabout.
- Lighting around the signalised junction to be reviewed at detail design stage and if required be amended.

- Hedges/trees and shrubs to be cut back/removed to maintain visibility to the signal heads on Manchester Rd.

Note: SCP are liaising with Network Rail (NR) on the opportunity to permanently have a tree removed from NR land, negating the need for further cutting back. This matter is ongoing and does not interfere with any planning decision.

Note: SCP and LCC reviewed the opportunity to provide specific on highway changes for cyclists at the access junction, unfortunately it was concluded that this is not possible.

Note: Delivery of all highway works will be under a Section 278 Agreement.

3.2 Internal Layout

3.2.1 Food store

Delivery and servicing to the food store is highlighted on SCP/200788/TR03. Service vehicles will be required to reverse from a dedicated turning head into the service area at the rear of the store, in a location where other vehicles may be present. This issue to be satisfied with the use of a banksman and **be controlled by a suitably worded planning condition**. This matter does not require any layout changes.

3.2.2 Public house

Delivery and servicing to the public house with carvery this is undertaken from the front of the building close to the development access and is highlighted on SCP/200788/ATP08. To overcome a safety issue during servicing the proposed layout requires one minor change being.

Greater provision to satisfy needs of delivery vehicles that allow any length of HGV safely manoeuvre and safely operate (having regard to swing rear doors and electric lift and the use of wheeled cages) with space required to the rear of the trailer not impeding the site access road.

When not in use the delivery area to be used as drop off and pick up. The area to be managed by the public house/carvery and controlled by **a suitable worded planning condition**. The displaced disabled parking to be relocated to the first row of parking.

It is noted that the swept path from the public house does exceed the internal road onto areas defined for pedestrians. This matter whilst beyond the public highway where LCC is responsible, it is suggested that this simple matter is resolved at internal detail design stage and to be **controlled by a suitably worded planning condition**.

3.2.3 Electric charging points

It is agreed that 2 charging points will be provided as part of this proposal. This is supported. Their delivery to be controlled by **a suitable worded planning condition.**

In addition, if practically possible it is suggested that additional ducting within car park is provided which then would support delivery of additional charging points at a later date.

3.2.4 Parking

The existing car park is controlled by Pay and Display.

With the inclusion of the food store, it is important that both end users needs are satisfied and that the car park is not used as railway station long stay carpark. Car park accumulation has been provided on the 2nd August which indicates there is sufficient parking available, to satisfy needs of both land uses.

A car park management strategy is required that has regard to the site uses and needs with duration of stay limited for the whole car park.

SCP indicate that the site will be controlled by ANPR and the car park will be limited to a length of stay of 90 minutes on the food store areas and 4 hours on the public house/carvery. The car park will be split into defined each area. The car park management strategy and its delivery to be controlled by **a suitable worded planning condition.**

4.0 Accident Review

I have reviewed accidents that have occurred in the vicinity of the site and whilst there are a cluster of accidents at the roundabout with Manchester Rd, Trafalgar St and Centenary Way, the development with its supporting infrastructure provides a number of improvements to allay my concerns. These include improved road markings at the roundabout, additional signing on the Centenary Way approach and formal pedestrian crossing over Manchester Road of which all improve safety.

5.0 Travel Plan/site sustainability

The development is customer based however includes employment. It is important that the development fully supports the principles of sustainable development and that of a travel plan.

It is noted that the site is well located, and the provision provided is sufficient for the site to be considered accessible for most. However, in line with the principles of the NPPF it would be reasonable to request that the principles of a Travel Plan are satisfied. If this ask is supported that it is controlled by a **suitable worded planning condition**.

6.0 Analysis of network and local junctions

6.1 Traffic Growth

The TA has assessment years of 2018 (date of observed traffic data) and factored to represent 2026 (5 years post submission date). This is in line with guidance. The approach taken forward assumes full projected growth does materialise between 2018 until 2026. This may be considered robust by some, but for the highway authority is the correct approach as background traffic flows will take time to return back to normal levels.

6.2 Trip Rates and distribution

Trip rates and trip distribution are generally in line with that expected.

6.3 Modelled area

The only junctions considered in detail are the site access and the Manchester Road/Centenary Way/Trafalgar Street roundabout. The area of influence is accepted.

Individual junctions have been modelled using appropriate software for 2018 and 2026 (with/without development) and indicates during the PM peak (only) there will be a level of queuing/delay at the new signalised junction, up to limiting levels of operation (with its all red phase for pedestrians). During the AM and Saturday peaks there is lesser levels of queuing and delay with development at the new signalised junction.

To overcome operational concerns on the wider network during the PM peak, a microsimulation was produced by SCP. The conclusion of this additional work was that whilst queuing from the signalised junction does occur, does not exacerbate conditions at the existing roundabout, beyond that which currently occurs. The operation of this visual model was shared with LCC at a meeting on the 28th July, appropriately that model included traffic growth.

Notes: The TN2 comparison of model types whilst it does indicate consistency in modelled results, I must highlight the report did not include traffic growth. However, in this case is not an omission as a direct comparison of results was still made.

Further with the provision of highway detector loops on approaches to the roundabout and links to the pedestrian crossing over Trafalgar Street will allow traffic be better managed by allocating additional red or green time to control movements etc (flush traffic from the roundabout by holding it elsewhere) this cannot be modelled in software as forms part of the signal set up.

7.0 Highway works

It will be expected that appropriate S278 works as detailed will be required and controlled by condition if the LPA were minded to approve this proposal. All works described above to be delivered by S278 Agreement.

Section 278 agreements (S278) are appropriate where improvements are required in the public highway, paid for by the developer (costs to include design fees, safety audits, TRO's, amendments to street lighting and traffic signalling equipment and all other risks associated with highway improvements required by the development so that public funds are not used in the provision of these features.

7.0 Conclusion

Lancashire County Council as highway authority is satisfied that the development can integrate into the environment and impacts be managed within and in the surrounding network, however, is subject to planning conditions being set and that all mitigation is delivered.

The modelling exercise undertaken ensures that the junction will not have *'an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*.

With respect to this application we would not wish to raise any objections to the application proposed.

Yours sincerely

Neil Stevens
Highways Development Control Manager
Community Services, Lancashire County Council

The following conditions may therefore be appropriate for any permission granted:

1. No part of the development hereby approved shall commence until a scheme for the construction of all highway works applied for including permanent, temporary and any remediation including access closures works post-delivery have been submitted to, and approved by the Local Planning Authority in consultation with the appropriate Highway Authority

Reason: In order to satisfy the Local Planning Authority and the Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site.

2. No site preparation (which includes demolition) or construction to commence until all temporary access works are provided and agreed in writing by the Local Planning Authority in consultation with the appropriate highway authority.

Reason: In order that the traffic generated by site preparation/demolition or construction does not exacerbate unsatisfactory highway conditions.

3. Prior to any commencement of the development, the developer shall submit a construction phasing plan including off-site highways works for approval by the Local Planning Authority and the appropriate Highway Authority. Development should not commence until this is approved in writing.

Reason: In order to maintain flow of traffic on local roads during site preparation and construction.

4. No part of the development hereby approved shall be occupied or opened for trading until the approved scheme referred to in condition 1 has been constructed and completed in accordance with the scheme details.

Reason: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway scheme/works.

5. Prior to first occupation of the development hereby approved a Car Park Management Strategy shall be submitted to, and approved in writing by, the Local Planning Authority. The Strategy to include all areas of development related parking, drop off/pick up and locations of site servicing (from within the site), set out the layout, means of access and egress to areas vehicle parking, maximum duration of stay, where appropriate, a mechanism that satisfies vehicle demand if capacity is exceeded and onsite parking enforcement. The provision of electric charging point. The plan and approved layouts shall be implemented prior to first opening.

Reason: To allow for the effective and efficient use of the parking areas and maintain flow of traffic on local roads when the development is operational.

- 6 No development shall take place until a Traffic Management Plan has been submitted to, and approved in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and be kept live taking into account influences beyond the control of this application. The Statement shall provide further information on routes and routeing. Also, to include use/limitations on each route for deliveries, plant, abnormal loads or employees/workers; profile for typical, the recording of daily deliveries; maximum number of deliveries per day; safe waiting areas on local road network. Deliveries to the approved development shall only be accepted between the hours of 9.30am and 4.00pm Monday – Friday, to avoid peak traffic on the surrounding highway network.

Reason: To maintain the operation and safety of local streets and the routes in the area during site preparation and construction.

- 7 No development shall take place until a Construction Method Statement has been submitted to, and approved in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. 24 Hour emergency contact number.
 - ii. the parking of vehicles of site operatives and visitors,
 - iii. loading and unloading of plant and materials,
 - iv. storage of plant and materials used in constructing the development,
 - v. the erection and maintenance of security hoarding/access points including decorative displays and facilities for public viewing, where appropriate,
 - vi. wheel washing facilities,
 - vii. a management plan to control the emission of dust and dirt during construction identifying suitable mitigation measures,
 - viii. a scheme for recycling/disposing of waste resulting from construction work (there shall be no burning on site),
 - ix. a scheme to control noise during the construction phase,
 - x. hours of construction/ hours of deliveries; and
 - xi. temporary lighting within compounds and on site.

Reason: To maintain the operation and safety of local streets and the through routes in the area during site preparation and construction.

- 8 Prior to first use of the development a delivery, collections and servicing strategy including hours of servicing and deliveries, the use of a banksman where any reversing is required,

shall be submitted to, and approved in writing by, the Local Planning Authority, strategy to link into car park management strategy.

Reason: In order to maintain flow of traffic on local roads when the development is operational.

- 9 Any external source of lighting shall be effectively screened from view of a driver on the public highway.

Reason: to avoid glare, dazzle or distraction to passing motorists.

The technical approval requires that all the County Council's costs in relation to the approval are to be reimbursed by the developer.

The following informative notes should be added to any approval granted:

- a. The grant of planning permission does not entitle a developer to obstruct any highway/right of way and any proposed stopping-up or diversion of an adopted public highway or right of way should be the subject of an Order under the appropriate Act.
- b. The grant of planning permission will require the applicant to enter into an appropriate legal agreement (Section 278), with Lancashire County Council as Highway Authority prior to the start of any development. The applicant should be advised to contact the county council for further information by telephoning the Development Support Section on 0300 123 6780 or email developeras@lancashire.gov.uk, in the first instance to ascertain the details of such an agreement and the information to be provided, quoting the location, district and relevant planning application reference number.
- c. There must be no reversing into or from the live highway at any time – all vehicles entering the site must do so in a forward gear, and turn around in the site before exiting in a forward gear onto the operational public highway.
- d. The alterations to the existing highway as part of the new works may require changes to the existing street lighting at the developer's expense.
- e. The grant of planning permission will require the developer to obtain the appropriate permits to work on, or immediately adjacent to, the adopted highway network. The applicant should be advised to contact Lancashire County Council's Highways Regulation Team, who would need a minimum of 12 weeks' notice to arrange the necessary permits. They can be contacted on lhsstreetworks@lancashire.gov.uk or on 01772 533433.
- f. Before proceeding with the scheme preparation, the Developer should consult with Lancashire County Council for detailed requirements relating to land arrangements, design, assessment, construction, and maintenance of all existing or new highway structures included in, or affected by, the proposed scheme. For this purpose, the term highway structure shall include:

- any bridge or culvert having a span of 1.5 metres or greater, or having a waterway opening cross sectional area exceeding 2.2 square metres {Note: span refers to the distance between centre of supports and not the clear distance between supports},
 - any retaining wall supporting the highway (including and supporting land which provides support to the highway),
 - Any retaining wall supporting land or property alongside the highway.
- The term 'highway' shall include footpaths and bridleways.

DEVELOPMENT CONTROL COMMITTEE

Thursday 12th August 2021

Additional Late Correspondence/Verbal Reports

AGENDA ITEM 6

Agenda Item 6b

FUL/2020/0540 – Lower Ridge (Former Care Home for the Elderly), Belvedere Road, Burnley

Additional Condition:

A further condition is recommended as follows in order to satisfactorily deal with any concerns relating to the safety, security and management of the site:-

Condition 9 – Site management, safety and security

Prior to any part of the approved development being first occupied, a scheme for the management of the site (including the comings and goings of occupants and measures to prevent noise and disturbance) as well as site security and safety measures shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in full and strictly adhered to at all times in perpetuity.

Reason: To ensure the safety and amenity of occupants and neighbouring properties, in accordance with Policy SP5 of Burnley`s Local Plan (July 2018).

This page is intentionally left blank