

Application Recommended for Approval
Gawthorpe Ward

FUL/2020/0214

Town and Country Planning Act 1990
Erection of foodstore (Class A1) with associated car park and new vehicular access following demolition of existing buildings
Land Off Wyre Street Padiham BB12 8DQ

Background:

The proposed site on the north side of Wyre Street amounts to 0.8ha and is assembled from the existing Enterprise Works (last occupied as Sensible Price van hire), a small building accessed from Clitheroe Street (tripe factory) and Unit 1 (currently occupied by Padiham Carpet Mill). The proposal is for the demolition of these buildings and the re-development of the site with a single storey Class A1 foodstore, measuring approximately 68.6m long by 37.5m wide with a monopitch roof up to 6.7m high. The proposed store would have a net sales area of 1,256sqm. A 20% proportion (251sqm) of the store would be used for non-food sales. The applicant is Lidl and the assessment is based on Lidl as the occupier.

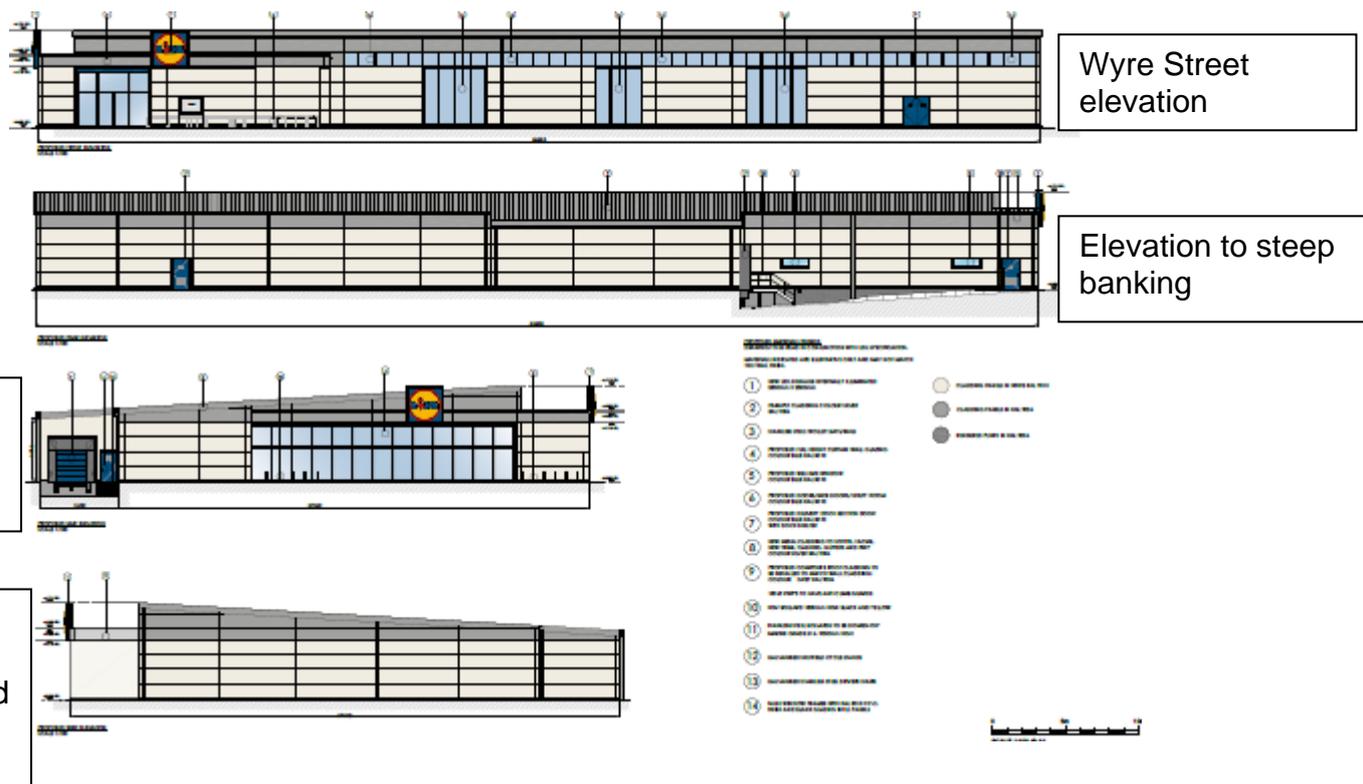
The application site bounds the edge of Padiham Town Centre on its western side where it is close to town centre car parks, retail shops and commercial uses. The western boundary of the application site is approximately 38m from the nearest edge of the Padiham Conservation Area. Adjoining the south west corner of the site is a childrens day nursery, to the north side is a steep landscaped bank and a sports courts and an area of landscaping at Mytton Street. Directly to the east of Unit 1 is an adjoining industrial unit (Unit 2) which would need separating and making good and further beyond are built-up residential streets up to the former Baxi site at the end of Wyre Street. A Tesco supermarket and car park is located to the south side of the site.

Proposed Site Layout



The proposed store would be sited towards the eastern side, along the horizontal axis of the site with the main car park area on the western side. The existing access points on Clitheroe Street and Wyre Street would be removed and a new vehicular access for customers and deliveries would be formed to the west side of the store and a further vehicular access serving a small staff car park would be formed on the east side of the store. Pedestrian access to the site would be from both Clitheroe Street and Wyre Street. The car park would provide 108 car parking spaces, including six disabled spaces, ten parent and child spaces and two electric vehicle charging spaces.

Proposed Elevations



The elevation facing Wyre Street has been improved since the application was first submitted by the addition of glazing. The portal framed structure consists of cladding in white to the main walls with grey to the upper level and roof.

The proposed opening hours are 8am to 10pm Monday to Saturday and 10am to 4pm on Sundays and Bank Holidays. There would be 40 employees (full time).

The following documents have been received in support of the application:-

- Design and Access Statement
- Planning and Retail Statement
- Statement of Community Involvement
- Transport Assessment
- Travel Plan
- Phase 1 Desk Study Assessment
- Ecological Impact Assessment
- Noise Assessment
- Air quality Assessment
- Flood Risk Assessment and Drainage Strategy

Energy Statement
Heritage Statement.

In respect of the Statement of Community Involvement, this reports that 8,301 leaflets were distributed to surrounding addresses prior to the application being made. The leaflet sought feedback either on-line or by way of a dedicated phonenumber. No event was organised due to Covid-19 restrictions. There was a total of 398 respondents, of which 98% supported the proposal in principle.

Relevant Policies:

Burnley`s Local Plan (July 2018)

SP1 – Achieving sustainable development

SP4 – Development strategy

SP5 – Development quality and sustainability

TC1 – Retail hierarchy

TC2 – Development within Burnley and Padiham town centres

HE2 – Designated heritage assets

NE1 – Biodiversity and ecological networks

NE4 – Trees, hedgerows and woodland

NE5 – Environmental protection

CC4 – Development and flood risk

CC5 – Surface water management and sustainable drainage systems

IC1 – Sustainable travel

IC2 – Managing transport and travel impacts

IC3 – Car parking standards

IC4 – Infrastructure and planning contributions

The National Planning Policy Framework (2019)

Site History:

APP/2010/0066 – Proposed change of use from warehouse to retail (Class A1) at Warehouse (Units 1 and 2), Wyre Street. Approved May 2010 with conditions, including restrictions to a primary use for sales to the trade and the sale of non-town centre goods.

PDEM/2020/0224 – Prior notification for demolition of buildings. Prior approval granted 27/8/2020.

Consultation Responses:

LCC Highways

Would not wish to raise any objections to the development.

Following further discussions with the developer the parameters of a section 278 agreement have been discussed. These cover the provision of a pedestrian island on Wyre Street and the associated alterations to the footway where new access points are created and existing ones reinstated. There will also be a requirement for alterations to the street lighting to be incorporated, as required. This is primarily prompted by the addition of a pedestrian island on Wyre Street and by the increased footfall on Clitheroe Street.

Further plans showing the scale and position of the proposed traffic island have been

received. It is noted that these are generally below the favoured sizes by Lancashire County Council, however the existing right turn lane marked on Wyre Street is of a similar width the proposed traffic island, and were a vehicle to be held waiting to turn right into the superstore then the existing running lanes would be similar. Whilst there is some available footway opposite the proposed entrance that could be altered to allow for a widening of the carriageway to enable wider running lanes and a wider pedestrian island, these gains would need to be offset against the misalignment of the running lane towards Sowerby Street. The traffic turning right into the super store will be placed closer to the line of the running lane, which apart from the risk of collision at the right turn may also lead to a reluctance to fully commit to the right turn lane and leave the right turning vehicle in the running lane of the traffic passing further along Wyre Street.

It is noted that a robust and comprehensive Traffic Assessment has been undertaken to accompany this application, this is based on the theoretical expected outcomes of the proposed Public Realm Scheme that is to be undertaken on Burnley Road Padiham, construction work is expected to begin in autumn 2020. It is not expected that the additional traffic generated by the completed food store will create a significantly detrimental effect on the traffic movements at the surrounding junctions. It is also expected that some of the existing traffic movements to the adjacent supermarket will merely migrate to the new food store. The application makes reference to the number of linked journey's and potential for customers to shop at both the adjacent food stores.

Should you wish to support the application, recommend conditions relating to the construction of the site access and the off-site works of highway improvement; a construction method statement; and wheel washing facilities during construction.

Environment Agency

In principle, we have no concerns regarding the flood risk to this development or about its potential to increase the flood risk elsewhere. Some inconsistencies in the submitted Flood Risk Assessment were identified but these have now been corrected. The EA affirm that they have no concerns regarding the flood risk to this development or about its potential to increase the flood risk elsewhere but state that it is for the developer to accept the residual risk to their development and have a suitable plan in place in case the development is affected by flooding.

In respect of contamination the EA advise as follows:

The previous use of the proposed development site as a mill with above ground storage tanks presents *high* risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located over a secondary A aquifer.

The application demonstrates that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 178 of the National Planning Policy Framework.

Without this condition we would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

Lead Local Flood Authority (LLFA)

No objection subject to the inclusion of a condition to require an appropriate surface water sustainable drainage scheme based on sustainable drainage principles.

United Utilities

In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

Whilst United Utilities acknowledges the Flood Risk Assessment Ref: AMO/190844/FRA, Rev: A, Dated: 12.05.2020, By: SCP, we believe the drainage hierarchy needs to be investigated in further detail and the surface water discharge rate to the culverted watercourse directly or indirectly requires further discussion with the Lead Local Flood Authority. As a result, United Utilities recommends that the following pre-commencement conditions are associated with any planning approval:

Condition 1 – Surface water

No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

(i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water; (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and (iii) A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Condition 2 – Foul water

Foul and surface water shall be drained on separate systems.

Please note, United Utilities are not responsible for advising on rates of discharge to the local watercourse system. This is a matter for discussion with the Lead Local Flood Authority and / or the Environment Agency (if the watercourse is classified as main river).

Management and Maintenance of Sustainable Drainage Systems

Recommend a suitable condition regarding a management and maintenance regime for any sustainable drainage system that is included as part of the proposed development.

A water main crosses the site. As we need unrestricted access for operating and

maintaining it, we will not permit development over or in close proximity to the main. We require an access strip as detailed in our 'Standard Conditions for Works Adjacent to Pipelines', a copy of which is enclosed.

The applicant must comply with our 'Standard Conditions' document. This should be taken into account in the final site layout, or a diversion may be necessary. Unless there is specific provision within the title of the property or an associated easement, any necessary disconnection or diversion required as a result of any development will be at the applicant's expense. Further advice and informatives are provided for the benefit of the developer.

Greater Manchester Ecology Unit (GMEU)

The Ecology report submitted to inform the application (*Enzygo, May 2020*) has been carried out by suitably qualified ecologists and was to appropriate and proportionate standards, given the overall character of the site.

The site is in a busy urban location and is dominated by existing buildings and hard standing. There is a small area of woodland immediately adjacent to the site on a steep embankment to the north, but the current plans show this woodland as being retained. The only potentially significant ecological consideration is the possibility of bats roosting in some of the buildings and structures currently on the site.

The Ecology survey was undertaken in mid-March, too early in the year for meaningful bat activity surveys to be undertaken. But the buildings were inspected for signs of bats and assessed for their potential to support bats by experienced ecologists. In general the site, and the buildings, were assessed as having negligible-low potential to support bats and the report states that "*due to the sites location and surrounding habitat, it is considered unlikely to support a roost of high conservation significance*". While some areas were assessed as having moderate potential to support bats (mainly cracks and crevices in stonework) this was mainly because there were access limitations and the surveyors have taken a precautionary approach to the assessment. They state that "*although it is likely considering the construction type, conditions and location that in truth this area is either of Low or Negligible suitability [for bats]*"

Given the location of the site, the type of buildings occupying the site and the scarcity of bat records in the area I would agree with the assessment that the site is unlikely to support a bat roost of any significance. Mitigation and compensation for any lost bat roosting potential would be possible by erecting bat roosting boxes in nearby woodland and/or installing features of value to bats into any new structures. I would conclude that if permission is granted to the application the conservation status of bats in the area is capable of being retained and that, in the unlikely case that bats are found to be roosting on the site, a license for disturbance to bats is likely to be granted by Natural England. In addition I would take into account the unique (exceptional) circumstances of the restrictions placed on movement during the Covid-19 emergency which made it very difficult to carry out bat survey work during the optimum bat activity period.

I would therefore raise no overall objections to the application on ecology grounds, but given the highly protected status of bats I would consider that further precautions as regards bats are justified. I would recommend that –

- Features identified as having some potential to support roosting bats (notably

the former foundry chimney) should not be demolished until further surveys and assessments for bats have been carried out. New surveys must be carried out by suitably qualified persons and to appropriate standards.

- New roosting features for bats should be required to be installed on nearby trees and/or as integral features in new buildings and structures. I would recommend at least four new bat roosting boxes should be installed.
- The small area of woodland on the northern embankment should be suitably protected during the course of any demolition works, site clearance or construction (with suitable fencing).
- Direct lighting of the adjacent small area of woodland adjacent to the site should be avoided.

Following the submission of an updated assessment, GMEU advise that due to the surveys that have been undertaken which found no evidence of bats that there is no need for conditions in respect of bats, although it would still be beneficial to put some bat boxes in the trees to the rear of the site.

Contaminated Land Consultant

No comments received to date.

Environmental Health

No comments received to date.

Publicity

A letter has been received from Steven Abbott Associates on behalf of the owners of Unit 2, Wyre Street. The letter explains the owner of Unit 2 does not object to the principle of the redevelopment or the erection of a foodstore, but has some concerns in relation to how the demolition and construction proposed could impact on their building and operations. The letter explains that Unit 2 was originally part of a single warehouse building. Planning permission was granted for a change of use and its sub-division in 2010 (APP/2010/0066) and a further permission was granted for the change of Unit 2 to Class B2 (general industry) (APP/2015/0325). The owner of the sub-divided Unit 2 is concerned that the application does not provide details of how the proposed development would be undertaken in a manner that ensures that Unit 2 is not damaged, or how the property would be remediated or how the Unit 2 can safely operate whilst the demolition works are taking place. As works will also be required to the roof and gutters, there is concern that no details are provided or details of any new boundary treatment. [the applicant has been made aware of these comments and has indicated that there is a dialogue between the parties concerned in order to resolve these party wall issues].

No other comments received.

Planning and Environmental Considerations:

Principle of proposal

The site is located within the urban area of Padiham and bordering the edge of its Town Centre. Padiham is identified at Policy SP4 of Burnley's Local Plan as a Key

Service Centre where development is expected to be of an appropriate scale. Padiham has a supporting role to Burnley in the retail hierarchy, where more modest development would be focussed. This proposal seeks to re-develop an existing site which would focus investment on regeneration within the urban area. The main issues relate to the suitability of the site and the proposal, having regard to town centre policies on retail development; its impact on traffic, accessibility and highway considerations; the visual impact of the proposal (including the loss of the former stone mill), its impact on the risk of flooding, on ecology, ground conditions, local amenity, noise and air quality.

Suitability of site for retail use and impact on Town Centre

Policy TC1 of Burnley's Local Plan places Padiham below Burnley in the retail hierarchy. The explanatory text states that it performs a supporting role to Burnley and comprises a range of independent and specialist shops, banks and professional services and a Tesco store which opened in 2012. Policy TC2 seeks to maintain and enhance the retail offer and service function of Burnley and Padiham Town Centres by focussing development within the Town Centre boundaries as defined on the Policies Map and applying a sequential test to site selection and impact assessment.

Policy TC2 states that convenience goods retailing (Class A1) is required to be located in Town Centres but where suitable sites are not available, they are required to be located in accordance with the following sequential test: Edge of Centre locations (330m of the Town Centre boundary); out of Centre. It also states that preference will be given to accessible sites that are well connected to the Primary Shopping Area/Town Centres and that applicants will be expected to demonstrate flexibility on issues such as format and scale. The requirement for a sequential search of sites is consistent with the NPPF. Policy TC2 also requires in this instance, where the proposal for retail development is outside of the defined Padiham Town Centre, for impact assessment to be carried out for proposals greater than 500sqm which is considerably less than the threshold of 2,500 sqm that is generally applied by the NPPF. The NPPF allows for local thresholds to be applied through an adopted local plan where applicable. The applicant has submitted a Planning and Retail Statement to comply with these requirements.

The Planning and Retail Statement explains that the proposed foodstore (Lidl) is a deeply discounted store which has a top-up shopping and complementary role to conventional food shopping. It performs a local or neighbourhood shopping facility, normally within a five minute drive time. A Lidl store will sell a limited range of discounted, primarily own brand goods, providing a comparatively limited offer with more limited opening hours which is distinct from mainstream retailers. As such, it affirms that it will be able to provide increased competition and consumer choice that would improve convenience shopping in Padiham.

The Planning and Retail Statement addresses the sequential test by setting out the minimal requirements for a new store which include a site large enough (minimum 0.6ha) for the format of the store, deliveries, parking etc. With the exception of the Tesco site, the Town Centre boundary is compact and defines the linear frontage of small, individual shops along Burnley Road and Church Street. There are no opportunities within this compact Town Centre for a new foodstore of the size that is required for the proposed operator. The sequential test therefore requires sites that are on the edge of the Town Centre to be considered (within 300m) with preference for accessible sites that are well connected to the Town Centre. The western

boundary of the application site on Clitheroe Street bounds the edge of the defined Town Centre boundary and provides a convenient pedestrian link with the Town Centre. The Statement concludes that there are no suitable or preferable sites to accommodate the proposed development. Given the compact nature of the Town Centre and its immediate surroundings, there is no reason to dispute this finding.

In carrying out an Impact Assessment as required by Policy TC2, the Planning and Retail Statement has taken a 10 minute drive time to reflect the character of the Padiham settlement and in order to take into account the following centres: Padiham Town Centre, Burnley Town Centre, Accrington Road Town Centre, Coal Clough Lane District Centre, Rose Grove District Centre and Briercliffe Road District Centre. As required, it has also considered the effect of the proposal on existing, committed and planned public and private investment within the centres.

In respect of Padiham Town Centre, the assessment finds that there are no deep discount food retailers within the Town Centre and that they would be offering a complementary shopping facility. The direct impact on the more individual and independent shops would be very low and the assessment suggests that the proposal could promote more linked trips with the Town Centre that would be beneficial. It calculates a trade draw from the Town Centre shops (excluding Tesco) at 4% which would not be a significant impact. In the case of Tesco, it acknowledges that the trade draw could be up to 10% but is more likely to be around 5% due to a likely increased performance since the retail study that was carried out by Nathaniel Lichfield and Partners in 2013. The Tesco site was brought within the Town Centre boundary as drawn for Burnley's Local Plan (2018) and it therefore has protection of part of the vitality and viability of the Town Centre. The calculated trade draw would have an impact on Tesco but would not be so severe as to make the store unviable. Notably, the presence of a discounted food retailer close to Tesco would also promote some linked trips that would bring new customers to the store.

The Planning and Retail Statement has also carried out a health check on Padiham Town Centre, stating that the vacancy rate currently stands at 8% which is below the national average of 9.2% and is much improved from the figure of 20% that was reported in the Nathaniel Lichfield and Partners assessment in 2013. This indicates a significant improvement and a Town Centre that is performing well. The Statement acknowledges the public investment in Padiham over the next five years through the Padiham Townscape Heritage Scheme which will support growth and development in the Town Centre, funded by the National Lottery Heritage Fund. The scheme will provide conservation and public realm improvements, neither of which would be affected by the current proposal. The retail impact on Padiham Town Centre and on public and private investment is likely therefore to be less than significant which would indicate that the proposal succeeds both in terms of the sequential test and impact assessment in respect of Padiham Town Centre.

The impact assessment in respect of Burnley Town Centre and District Centres finds little impact, either due to the nature and retail offer within those Centres or the presence of competing choices outside of the Centres. The retail impact is therefore more likely to be confined to Padiham where it has been found to be an acceptable impact.

It is concluded therefore that the proposed site being contiguous with the Town Centre and highly accessible for linked trips is a sequentially preferred site and would have only a minimal impact on the vitality and viability of the Town Centre. The applicant

claims that the introduction of a discount retailer in Padiham will address the qualitative need for greater choice and competition in the town. Notably, the proposal will add to the range of shopping facilities in the market town which would improve the overall retail offer. The proposal has demonstrated compliance with Policy TC2 and the National Planning Policy Framework.

Transport, traffic and parking

Policy IC1 seeks to promote sustainable travel. It requires development schemes, as appropriate to their nature and scale, to be located in areas well-served by walking, cycling and public transport. It seeks to maximise opportunities for the use of sustainable modes of travel by placing pedestrians, cyclists, public transport above the use of private vehicles in the user hierarchy. It also requires schemes to provide for safe pedestrian, cycle and vehicular access to, from and within the development, including adequate visibility splays.

A Transport Assessment and Travel Plan are submitted with this application, as required by Policy IC2.

Policy IC3 sets out the parking expectations, including mobility parking, motorcycle and cycle parking and electric car charging points.

Paragraph 109 of the NPPF states that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The NPPF also requires proposals to provide safe and suitable access for all users and to create opportunities for walking, cycling and public transport.

The submitted Transport Assessment (TA) assesses the impact of the proposal on the capacity and safety of the highway network. In doing so, it has taken into account the planned public realm works in Padiham Town Centre which are being carried out by Lancashire County Council and Burnley Borough Council. These include the removal of the signalised junction at Burnley Road/Sowerby Street, in exchange for a less cluttered and more pedestrian focussed experience. The assessment also takes into account the potential development of the former Baxi site at the easterly end of Wyre Street. The site would be made easily accessible from the town centre by a new pedestrian and cycle access into the site from Clitheroe Street, accessed from Burnley Road (opposite Station Road). A pedestrian/cycle access would also be formed at a new priority T junction into the proposed car park to the west side of the proposed store. The nearest bus stop is located on the A671 Burnley Road within 100m of the site's entrance and provides services between Burnley, Nelson, Clitheroe and Preston. This would make the site accessible by public transport and by walking/cycling from the surrounding area. Five Sheffield style parking stands for up to ten cycles would be provided for customers whilst staff would be permitted to store cycles safely with the building.

The TA predicts the trip generation to the site, based on other existing Lidl stores and within the TRICS database (Trip Rate Information Computer System). Within the peak hour weekday period (4pm-5pm), it predicts 84 arrivals and 87 departures, whilst at the Saturday peak period (12pm-1pm) it predicts a 120 arrivals and 132 departures. From the experiences of similar sized convenience stores, the TA predicts that there

will be a high proportion of linked trips and pass-by trips. It states that smaller stores are likely to experience much higher rates of pass-by trips and that the average length of stay of a Lidl customer is 20-25 minutes. The applicant asserts that their discounted model shop with fewer product lines is the reason for shorter trips. There is also a strong likelihood of linked trips with some shoppers complimenting their shopping at the larger Tesco store with some shopping at Lidl. The TA finds that the total number of vehicle trips to the proposed foodstore will add to the nearby junctions on Burnley Road by 3.5% in the PM peak period and by 7.3% in the Saturday peak period. It concludes that this increase would be within the operating capacity of the existing road network and the road network as improved by the planned public realm improvements.

The proposed site access on Wyre Street has adequate visibility splays. Off-site works to create a traffic island to provide for safer pedestrian crossing between the Tesco store to the south of the site and the proposed foodstore as indicated on the proposed plans. The details and specifications for the off-site works of highway improvement would be dealt with by way of a s278 Agreement with the local highway authority. A condition is also required to secure these. A condition is also recommended to require details of improvements to the footways on Wyre Street and between Burnley Road and Clitheroe Street to ensure that these pedestrian routes are cleanly and neatly surfaced to encourage access on foot.

Deliveries to the site would use a 16.5m long articulated lorry and occur twice per average day, increasing to three deliveries during seasonal peak periods such as Christmas and Easter. Swept paths have been submitted to show that the lorries can enter and reverse into the loading bay and leave the site in forward gear. Refuse and recycling is taken away from the store by the same delivery vehicles to reduce trips. Deliveries are normally outside of daytime operational hours or at off-peak periods.

The site would provide a total of 108 car parking spaces. The car parking standards at Appendix 9 of Burnley's Local Plan set a minimum and maximum standard based on one space per 14sqm of gross floorspace which in this case is 1,842sqm (1,256sq net). Applying this rate would normally require 131 spaces. A shortfall of 23 spaces is unlikely in this instance to raise a parking issue due to the proximity of town centre car parks and the nature of the proposed discounted foodstore that has a relatively quick turnover of shoppers (20-25 minutes stay). From Lidl's experience of similar stores, it finds that the maximum parking demand would be 46 spaces during the weekday peak period and 58 spaces during the weekend peak period. It is anticipated therefore that the car park will operate far below its capacity of 108 spaces. LCC Highways is satisfied with the level of car parking that would be provided at the site as well as the level and layout of mobility parking, cycle parking and electric vehicle charging points.

A Travel Plan has also been submitted with the application which focusses on journeys made by employees with objectives, targets and measures to reduce car use. As this is a recognised tool for reducing car travel it is recommended that a condition be imposed to require a full travel plan to be submitted, monitored and reviewed over the initial five year period from the opening of the foodstore.

The assessment has demonstrated that there is good accessibility to the proposed site and sufficient capacity within the road network for the proposed development. The layout and design of the scheme would provide adequate and safe access and

parking to cater for the needs of the development. LCC Highways has no objection to the proposal subject to the inclusion of various conditions. Conditions are necessary to secure off-street works of highway improvement, to require the satisfactory implementation of the parking layout, to require a full travel plan and its implementation and to require a Construction Method Statement. Subject to these provisions, there would be no severe or significant impact on traffic or highway safety and the proposal would not conflict with Policies IC1, IC2 or IC3 or the National Planning Policy Framework.

Visual impact

Policy SP5 requires development to seek high standards of design. The proposed foodstore is appropriately sited towards the eastern end of the site and would be constructed in a design and cladding materials that is suitable for its purpose. The applicant has added glazed areas to the south elevation facing Wyre Street in order to provide an improved street appearance.

The steep banking on the north side of the site would require cutting into and the erection of a retaining wall. This would be largely out of view and trees at the top of the banking would not be adversely affected. A condition to require details of the external finish of the retaining wall is recommended.

Heritage impact

Policy HE2 states that proposals affecting designated heritage assets will be assessed having regard to the desirability of sustaining and enhancing the significance of the asset and, where appropriate, securing a viable use most consistent with its conservation and that all levels of harm should be avoided. Policy HE3 refers to non-designated heritage assets and requires proposals that affect such assets to be given due consideration to its significance.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 confers upon local planning authorities a duty to have special regard to the effect of a proposal on the setting of a Conservation Area.

The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal and taken of the following:-

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

The NPPF states that great weight should be given to the asset's conservation. Substantial harm should not be allowed but where a development will lead to less than substantial harm to the significance of a designated heritage asset then this should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The site is a short distance (within 38m) of the Padiham Conservation Area and the site comprises part of the former Enterprise and Industry Mill which would be wholly demolished. The mill represents a non-designated heritage asset and its contribution to the setting of the Conservation Area should be considered.

There is however only limited visible connection between the site and the Conservation Area, due to the presence of other buildings. The mill itself has minimal physical presence and with little visual association, its removal would have no harm to the setting of the Conservation Area. Its archaeological interest should however be recorded and a suitable condition is recommended to secure this. Furthermore, the perimeter stone wall on Clitheroe Street has a street presence that reflects the history of the site and at a reduced height would provide a suitable boundary treatment. A condition is also recommended to require details of how the mill wall could be modified to form a boundary feature.

The proposal would not cause harm to the setting of the Padiham Conservation Area through the loss of a non-designated heritage asset but conditions are recommended to require a suitable recording and boundary details. The proposal would not therefore conflict with Policies HE2, HE3 or the National Planning Policy Framework.

Energy efficiency

Policy SP5 seeks high standards of design and sustainability. For non-residential developments over 1000sqm it requires a BREEAM Assessment with the expectation of achieving a `Very Good` rating. An Energy Statement has been submitted with this application to demonstrate the energy efficient measures that will be deployed and the types of renewable energy and other measures that have been considered and found to be unsuitable for the site. A further statement has been received to demonstrate why not all parts of the BREEAM assessment are applicable on this site due to site conditions.

The applicant states that the BREEAM assessment has ten environmental sections of sustainability, including management, energy, water, waste and ecology. The applicant has appointed an Sustainability and BREEAM Advisory Professional to ensure that realistic targets can be achieved but is recognised that it is unlikely to be possible to achieve a very high rating due to the ecology category where a higher standard will not be possible. This should however be seen in the context of the energy efficiency credentials in the submitted Energy Statement. This demonstrates that the proposed measures will result in a significant carbon reduction of 27.8% and energy reduction of 32.42% (over and above Part L requirements of the Building Regulations). The proposals would provide 13.37% of the site's regulated annual energy consumption delivered by a renewable source.

The energy efficient and renewable proposals would therefore provide an energy efficient development which would be in compliance with the objectives of Policy SP5. A condition is recommended to require the scheme to be implemented in accordance with the targets and measures identified in the submitted Energy Statement.

Flood risk

Policy CC4 seeks to ensure that new development does not result in increased flood risk from any source or other drainage problems, either on the development site or elsewhere. The NPPF (paragraph 157) states that all plans (eg Local Plan) should apply a sequential, risk-based approach to the location of development and that

(paragraph 163) when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

The proposed site is located within Flood Zone 2 where there is a moderate risk from flooding. A Flood Risk Assessment has been submitted and has been assessed by the Environment Agency, the LLFA and United Utilities. Their comments and recommendations are reported above.

The proposed drainage would be by way of a piped system discharging into the existing surface water sewer. Attenuation would be applied to restrict flows which would be a benefit over the current situation. The EA has no objection and the LLFA and United Utilities also recommend conditions which are necessary to agree a detailed scheme and to provide for lifetime maintenance.

With these provisions, the proposal would not lead to an increased risk of flooding or lead to flooding elsewhere and would comply with Policy CC4.

Ecological impacts

Policy NE1 states that all development proposals should, as appropriate to their nature and scale, seek opportunities to maintain and actively enhance biodiversity in order to provide net gains where possible. The proposal would have no direct impact on ecology due to the absence of such features at the site. Recent surveys have found no presence of bats in the trees that border the north side of the site but GMEU recommend the installation of bat boxes to improve future conditions for bats in the local area. There is limited landscaping potential for the site due to its built-up nature and presence of car parking, in which case it is accepted that a net gain is not possible in this instance. The proposal would not lead to harm of protected species and is acceptable in ecology terms and would not conflict with Policy NE1.

Local amenity and noise

Policy SP5 requires proposals to ensure there is no adverse impact on the amenity of neighbouring occupants. The nearest neighbours are to the east and north east of the site where there is potential for plant noise and servicing to increase background noise levels. A Noise Assessment has been submitted and this demonstrates that there would be only minimal noise output from the proposed foodstore but recommends an acoustic fence around the plant area. Subject to a condition to require the implementation of the mitigation measures in the Noise Assessment, there would be no significant impact on the amenities of neighbouring occupiers.

The issues raised by the owner of Unit 2 on Wyre Street are party wall issues and should be dealt with privately. However, the proposed demolition would lead to an exposed end wall and a condition is therefore recommended to require details of its appearance and finish, together with details of guttering/downpipes.

Ground conditions

The site is a Standing Advice Area for coal mining legacies and a risk assessment is therefore not required but an advisory note should be put on any permission. A phase 1 desk top study has been submitted to identify the historic uses of the site and potential contaminants. In this case where there are known contaminants, a conditions is required to require intrusive site investigations and a remediation strategy. Subject to these provisions, the proposal can be delivered without risk to human health.

Impact on air quality

Policy NE5 states that the Council will seek to ensure that proposals for new development will not have an unacceptable negative impact on air quality. An Air Quality Assessment has been submitted that shows only a negligible impact that would not be significant. Notably, two electric car charging points will be installed which are a means of lowering emissions and reducing air pollution.

Conclusion

The proposed development would be a suitable re-development of a site that borders Padiham Town Centre and provide benefits from increasing the range of shopping facilities for local people. The proposal has been assessed against retail policies that aim to protect Town Centres and in this instance, it is accepted that the site is suitable and would not lead to a significant impact on the viability or vitality of Padiham Town Centre or other Centres. Traffic impacts have also been considered and can be accommodated within the network without leading to a severe impact or adversely affecting highway safety. Issues in terms of heritage impact, visual amenity, noise, ecology, air pollution, flood risk and ground conditions have been taken into account and any identified impacts can be satisfactorily resolved by conditions. The proposal has been found to comply with the development plan and there are no material considerations that would outweigh this finding.

Recommendation: Approve with conditions

Conditions

1. The development must be begun within three years of the date of this decision.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans listed on this notice below.

Reason: To ensure the development is implemented in accordance with the approved plans and to avoid ambiguity.

3. Prior to the commencement of built development, representative samples and details of the external materials of construction to be used on the walls and roofs of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved materials.

Reason: To ensure a satisfactory appearance to the development, having regard to the character of the local area, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

4. Details of surfacing materials to be used within the car park and areas of hardstanding shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of surfacing works within the application site. The development shall thereafter only be carried out in accordance with the approved details.

Reason: To ensure a high quality appearance to the development, in accordance and access/parking facilities, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

5. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any provision within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any statutory instrument revoking or re-enacting those Orders, the approved development shall be used as a Class A1 retail foodstore only with no more than 251sq of floorspace for non-food sales and shall not be used for any other purposes.

Reason: To ensure the satisfactory implementation of the proposal where the proposal has been assessed in accordance with the details of the proposed use as submitted. Other proportions of food/non-food retail sales other uses within Class E of the Town and County Planning (Use Classes) Order (as amended) would also require a new assessment in respect of impacts on the Town Centre and on highway and parking considerations.

6. No development shall be commenced until a scheme for the means of protecting the trees to the north side of the application site, in accordance with BS 5837 (2012), including the protection of root structures from injury or damage prior to and during the development works, has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall also provide for no excavation, site works, trenches or channels to be cut or laid or soil waste or other materials deposited so as to cause damage or injury to the root structure of the retained trees or hedges. The approved scheme of protection measures shall be implemented in its entirety before any works are carried out, including any site clearance work, and thereafter retained during building operations until the completion of the development.

Reason: To ensure adequate protection for the long term health of trees which should be retained in the interests of the visual amenities and biodiversity of the local area, in accordance with Policy NE4 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development to ensure that provision can be made for their implementation at the appropriate stage of the development process.

7. All planting, seeding or turfing comprised in the approved details of landscaping set out on the approved Landscape Layout (drawing number R/2356/1) shall be carried out in the first planting and seeding seasons following the first occupation of any of the dwellings within any phase of the development or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.
8. Prior to the approved development being first brought into use, bat boxes shall be installed in accordance with details and locations to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure suitable measures to provide for bats in the vicinity of the development, in accordance with Policy NE1 of Burnley's Local Plan (July 2018).

9. Prior to the commencement of development, a scheme for the construction of the site access and associated off-site works of highway improvement shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory means of access to and from the site to serve the needs of the development, in the interests of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018). The details are required prior to the commencement of development to ensure that the details are satisfactory and can be implemented at the appropriate time and stages of the development in the interests of highway safety.

10. No dwelling shall be first occupied until the approved scheme referred to in condition 9 above has been constructed and completed in accordance with the scheme details.

Reason: To ensure that new occupiers have a safe means of access to and from the site, in the interests of highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

11. The approved development shall not be first open for business until the car park areas have been constructed, drained, marked out and signed (as appropriate), including two electric car charging points and cycle parking and are available or use in accordance with the approved plans and any other details subsequently approved by condition 4 above. The car parking layout and provision shall thereafter be retained for the purposes of customer and staff car parking at all times.

Reason: To ensure adequate parking to cater for the needs of the development, in the interests of highway safety and amenity, in accordance with Policy IC3 of Burnley's Local Plan (July 2018).

12. Prior to any built development, details of improvements to the surfacing of pedestrian/cycle links to and from the application site at Wyre Street and between Clitheroe Street and the Town Centre shall be submitted to and approved in writing by the Local Planning Authority. The approved pedestrian and cycle links shall thereafter be constructed in accordance with the approved details and be completed and available for use prior to the approved development being first open for business.

Reason: To ensure good quality pedestrian/cycle routes to and from the proposed development, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

13. For the full period of construction, facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud and stones being carried onto the highway.

The roads adjacent to the site shall be mechanically swept as required during the full construction period.

Reason: To avoid the deposit of mud or debris on the public highway, in order to protect highway safety, in accordance with Policy IC1 of Burnley's Local Plan (July 2018).

14. 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) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) wheel washing facilities;
 - vii) details of working hour;
 - viii) contact details for the site manager; and,
 - ix) routing of delivery vehicles to/from the site.

Reason: To ensure that the safety and amenities of occupiers of neighbouring properties and users of the local highway are satisfactorily protected, in accordance with Policies NE5 and IC1 of Burnley's Local Plan (July 2018). The Construction Management Plan is required prior to the commencement of development to ensure that the measures contained therein can be carried out at the appropriate phases of the construction period.

15. Within six months of the first use of the approved development, a Full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Full Travel Plan shall thereafter be implemented in accordance with the timescales within the approved Travel Plan and shall be audited and updated at intervals of not greater than 18 months for a period of up to five years. The measures contained with the Travel Plan shall be adhered to at all times.

Reason: To promote and provide access to sustainable travel options, in accordance with Policy IC2 of Burnley's Local Plan (July 2018).

16. Unless otherwise approved in writing by the Local Planning Authority, all works and ancillary operations in connection with the construction of the development, including the use of any equipment or deliveries to the site, shall be carried out only between 0800 hours and 1800 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays. Where permission is sought for works to be carried out outside the hours stated, applications in writing must be made with at least seven days' notice to the Local Planning Authority.

Reason: To safeguard the residential amenities of the local area, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).

17. Prior to the commencement of built development, details of the design and implementation of a surface water sustainable drainage scheme, based on sustainable drainage principles, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented and completed in accordance with the approved scheme prior any dwelling being first occupied. The approved drainage scheme shall be retained at all times thereafter.

Reason: To ensure the adequate drainage of the site and to reduce the risk of flooding, in accordance with Policies CC4 and CC5 of the Burnley's Local Plan (July 2018). The scheme is required prior to the commencement of development to ensure that acceptable works can be agreed before works start and can then be implemented at an appropriate stage in the development.

18. No dwelling shall be first occupied until details of a sustainable drainage management and maintenance plan for the lifetime of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed, retained, maintained and managed at all times in accordance with the approved plan.

Reason: To ensure adequate and appropriate funding, responsibility and maintenance mechanisms are in place for the lifetime of the development, in order to ensure the appropriate drainage of the site and to reduce the risk of flooding, in accordance with Policies CC4 and CC5 of the Burnley's Local Plan (July 2018).

19. Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution, in accordance with Policies CC4, CC5 and NE5 of Burnley's Local Plan (July 2018).

20. Prior to the demolition of Unit 1, details of the materials, appearance, finish and guttering/downpipes of the adjoining retained unit shall be submitted to and approved in writing by the Local Planning Authority. The retained unit shall thereafter made good in accordance with the approved details.

Reason: To ensure an appropriate appearance and condition for the retained unit, in accordance with Policy SP5 of Burnley's Local Plan (July 2018).

Further conditions to be reported in Late Correspondence.

Janet Filbin
30th September 2020