

Application Recommended for Approval
Daneshouse with Stoneyholme

FUL/2021/0029

Town and Country Planning Act 1990
Full Planning Application

Applicant Details: Mr N Putnam

Agent Details: Mrs Deborah Smith – Smith & Love Planning Consultants

Proposed Development: Erection of mixed use development comprising cinema, 5no. food and beverage units (Class E(a)) / retail units (Class E b)), with associated service area on Bankhouse Street serving units 1-6, two separate customer car parks with access from Royle Road, customer car park with access from Curzon Street together with associated public realm and landscaping

Site Address: Land At Curzon Street And Pioneer Place Car Park Curzon Street Burnley

Background:

The application site is located within the defined Town Centre boundary of Burnley on the edge of the Primary Shopping Area. The site comprises two sections - a car park known as Pioneer Car Park and a storage compound sitting on a large area of hardstanding. The site measures 1.5ha and is largely rectangular in shape with the southern boundary skirting existing buildings and a car park. To the north east corner are large retaining walls within the site running adjacent to Curzon Street. The topography of the site sees significant levels difference along Bankhouse Street (6.96m) and Curzon Street (4.20m).

The site is open to all four sides, the River Brun runs directly through the site from west to east and is culverted in part. To the north lies Active Way (A679) which is the main A road that runs through Burnley Town Centre. The Anchor retail park lies on the opposite side of the A679, to the north, and includes a number of retail premises. To the south are also retail uses including Primark, Next and Curzon Square Multi-storey Car Park. To the east on the opposite side of Curzon Street is made up of independent shops including a pet shop, a tanning studio, a salon and a photography studio. To the west lies the Town Mouse Public House which is a grade II listed building. A scrap metal and motor garage are also located to the west of the site, which can be accessed from Royle Road.

The site is serviced by Burnley Central Railway Station which lies approximately 180 metres to the north of the site and provides direct connection to Preston, Blackburn and Colne. Bus services are located on St.James' Street, and provide a number of regular services to locations including Preston, Clitheroe, Cole, Trawden and Accrington.



Aerial Site Photo

Proposed Development:

Planning consent is sought for the erection of mixed use development comprising cinema, 5no. food and beverage units (Class E(a)) / retail units (Class E b)), with associated service area on Bankhouse Street serving units 1-6, two separate customer car parks with access from Royle Road, customer car park with access from Curzon Street together with associated public realm and landscaping.

This application is a re-submission of the previously approved application FUL/2019/0478, albeit occupying a smaller footprint and comprising of a smaller scheme.

Application FUL/2019/0478 gained consent for the construction of a leisure & retail development comprising an 8 no. screen multi plex cinema, 7 no. food and beverage units (Class A3), 2 no. retail/ leisure units (Class A1/ A3) with associated service yard with access from Curzon Street serving units 1-6, 125 car parking spaces and service access from Royle Road serving units 8 -10 together with associated public realm and landscaping. The total leisure and retail floorspace extended to 5767.3 sqm.

This application seeks to create a total leisure and retail floorspace of 2,931m² which is a reduction of 2836.3m². Further to this, the previous application gained consent for 9 food/beverage/retail/leisure units (floor space 3762m²), whereas, this application seeks consent for 5 units in total (floor space 1184.5m²). Thereby, reducing the total floor space of the units by 2577.5m².

Unit	Use	Floorspace (sq m)
1	Cinema	1746
2	Restaurant / Retail	325.9
3	Restaurant / Retail	325.9
4	Restaurant / Retail	190.9
5	Restaurant / Retail	190.9
6	Restaurant / Retail	150.9

Table 1: Floorspace figures

The Reel cinema complex comprises of 7 no. screens, an internal foyer area, WCs, an office and internal stores and is located in the centre of the scheme, which can be viewed from Active Way and adopts a highly contemporary appearance utilising a metal cladding system laid vertically and anodized aluminium rainscreen cladding to create an entrance point. With a height of 12m the external elevations of the cinema contrasts with the remainder of the development which seeks to reflect materials and colours more commonly found in Burnley.

Units 2 – 6 (Class E) are single storey buildings which front the cinema, facing outwards of the development and provide a connection from the town centre to the cinema complex. These units comprise food and drink and/or retail providing the Applicant with flexibility and maximum scope to secure a suitable mix of tenants. Anodized aluminium rainscreen cladding and also proposed on these units, in different colours including dark bronze, mid-bronze and dark grey.

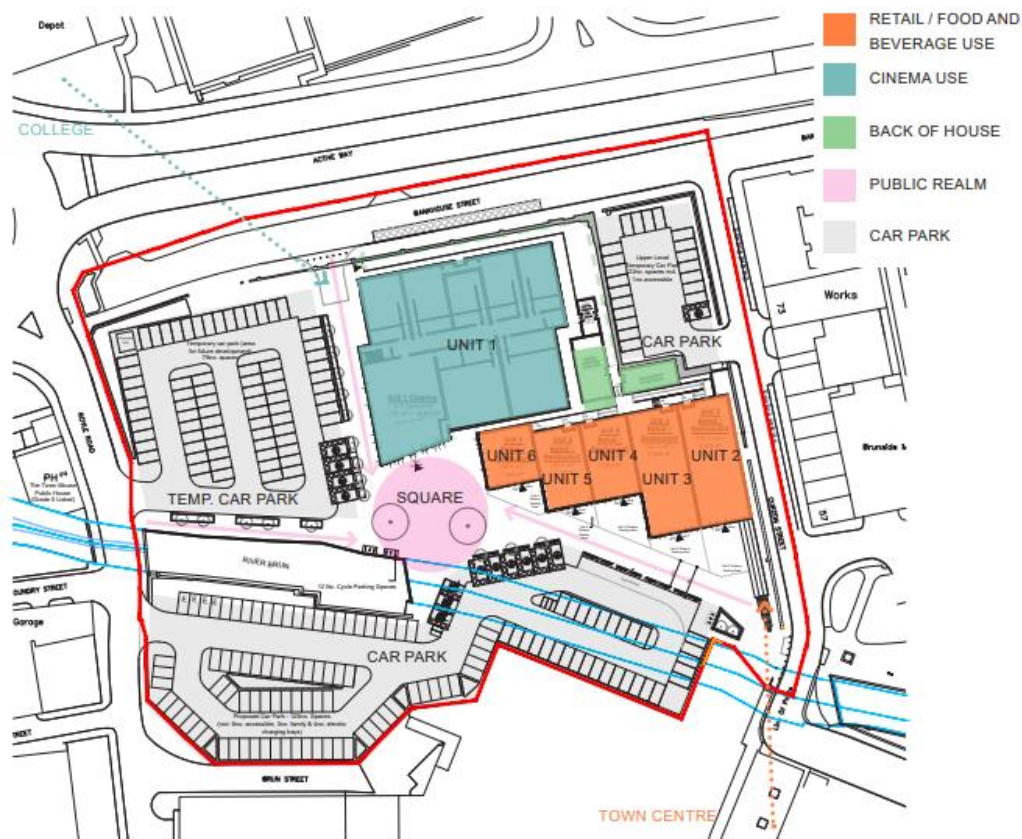
The scheme now shows a strong axis between the car park and buildings, directing views through the site towards the listed building and viaduct. The retail / restaurant units flank this walkway with space to spill out onto external seating areas - all South facing to maximise sunlit areas.

The retail / restaurant units are lower in height than previously approved, due to this, the cinema is exposed above them, allowing views over the top of the units towards the foyer, offering signage opportunities, and being visually prominent from the town centre.

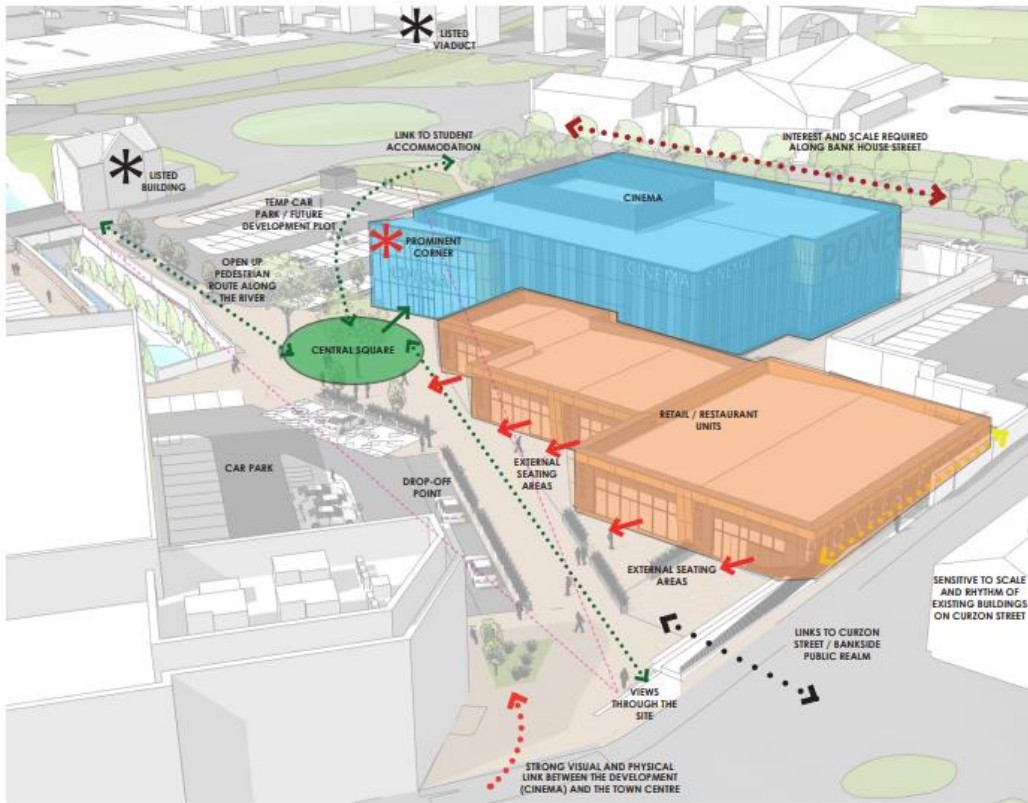
The main square within the public realm is situated in the centre of the scheme outside the cinema entrance. This will allow for a flexible public square which could take on a variety of uses throughout the year (Christmas markets, festivals, installations etc.), and is fed by pedestrian routes into the site from Royle Road, Active Way and Curzon Street.

All units will be serviced from the rear. The cinema will have its own refuse store located to the rear of the building, and units 2-6 will have a communal refuse store. Both can be accessed from the rear of the units and the external service route which wraps around the cinema and exits onto Bankhouse Street. The service area will be concealed from public view by the units themselves, and the existing brickwork boundary wall.

Proposed parking bays are 2.4x5m achieving requirements set out in the local plan. Across the three parking areas, 226no. spaces are provided. This includes 11no. accessible spaces, 3no. family spaces and 4no. electric vehicle charging spaces. There are also 5no. motorcycle parking spaces and 18no. cycle spaces provided within the public realm areas.



Proposed Site Plan



Proposed Design Visual



View from Curzon Street



View from Active Way Roundabout

Supporting Information:

To support the proposed development the application has been accompanied by the following reports:

- Planning Statement
- Draining Strategy Report
- Ground Investigation Report
- Heritage Impact Assessment
- Ecological Survey
- Tree Survey
- Shell and Core Energy Report
- Noise Assessment
- Air Quality Assessment
- Crime Impact Assessment
- Coal Mining Risk Assessment
- Design & Access Statement
- Flood Risk Assessment
- Transport Assessment

Relevant Policies:

In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan, unless material considerations indicate otherwise.

Burnley's Local Plan (July 2018) Policies:

In determining the current proposal, the following are considered to be the most relevant policies: SP1 – Achieving sustainable development

SP4 – Development strategy

SP5 – Development quality and sustainability

SP6 – Green infrastructure

TC1 – Retail Hierarchy

TC2 – Development within Burnley and Padiham Town Centres

TC4 – Development Opportunities

TC4/1 – Former Pioneer, Curzon Street

HE1 – Identifying and Protecting Burnley's Historic Environment

HE2 – Designated heritage assets

NE1 – Biodiversity and ecological networks

NE3 – Landscape character

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

Appendix 9 – Car Parking Standards

Other Material Planning Considerations:

National Planning Policy Framework 2019 (NPPF).

The following headings and content of the NPPF are considered the most relevant to the consideration of the current proposals:

2. Achieving Sustainable Development;
4. Decision-making;
6. Building a strong, competitive economy;
7. Ensuring the vitality of town centres;
8. Promoting healthy and Safe communities;
9. Promoting sustainable transport;
11. Making effective use of land;
12. Achieving well-designed places;
14. Meeting the challenge of climate change, flooding and coastal change;
16. Conserving and enhancing the historic environment

Additional planning considerations:

National Planning Practice Guidance (NPPG)
Planning (Listed Buildings and Conservation Areas) Act (Adopted 1990)
Burnley Town Centre & Canalside Masterplan
Burnley Retail, Leisure and Office Assessment
Air Quality Management SPD

Site History:

Application ref. APP/1997/0199

Proposal: Erection of retail units and multi storey car park, including details of siting and means of access (design, external appearance and landscaping reserved for subsequent approval)

Decision: Granted July 1997

Application ref: APP/1997/0418

Proposal: Design, external appearance and landscaping of two retail units, multi-storey car parking and new shop fronts

Decision: Granted November 1997

Application ref: APP/2001/0291

Proposal: Proposed change of use from retail store (Class A1) to public car park

Decision: Refused April 2004

Application ref: APP/2003/0117

Proposal: Change of use from parking area of former food store to short stay pay and display public car park for a temporary period of three years

Decision: Granted May 2003

Application ref: APP/2004/1001

Proposal: Temporary use of land for commuter parking (250 spaces)

Decision: Granted October 2004

Application ref: APP/2006/0170

Proposal: Renewal of temporary permission for use of land for public car park for a temporary period of eighteen months

Decision: Granted March 2003

Application ref: APP/2006/0452

Proposal: New retail and restaurant development; service access onto Active Way and multistorey car park

Decision: Granted September 2006

Application ref: APP/2007/0679

Proposal: Renewal of the temporary use of land for commuter parking (250 spaces) for a period of 18 months from 30th September 2007
Decision: Granted June 2007

Application ref: APP/2009/0042

Proposal: Renewal of the temporary use of land for commuter parking (250 spaces) for a period of 18 months from 31st March 2009
Decision: Granted March 2009

Application ref: APP/2010/0213

Proposal: Renewal of the temporary use of land for commuter parking (250 spaces) for a period of one year from 30th September 2010
Decision: Granted May 2010

Application ref: APP/2011/0052

Proposal: New retail and leisure development together with multi-storey car parking, access and landscape works
Decision: Granted May 2011

Application ref: APP/2011/0548

Proposal: Continuation of use of land as a car park
Decision: Granted December 2011

Application ref: APP/2012/0462

Proposal: Continuation of use of land as a car park
Decision: Granted November 2012

Application ref: FUL/2019/0478

Proposal: Erection of mixed use development comprising cinema, 7no. food and beverage units (Class A3), 2no. retail/leisure units (Class A1 or A3) with associated service yard with access from Curzon Street Serving units 1-6, customer car park and service access from Royale Road serving units 8-10 together with associated public realm and landscaping.
Decision: Granted January 2020

Consultation Responses:

Highways:

With respect to this application we would wish to raise any objection to the principle of the development. Should further submissions be forthcoming allaying our concerns we would be able to support the application. It is also apparent that the concerns could be allayed by the addition of a number of suitable conditions to allow the details to be determined at a later date. In order to progress the application we would look for the following concerns to be addressed by either further submissions or by way of a suitable condition.

The main areas of concern are that

- each of the car parking areas shall be provided with the means of charging an electric vehicle on all car parks
- the lighting scheme for the car parking areas will need to be accessed to ensure that there is no glare to the adjacent highway, due to the central location potential high use of the site in the late evening it is expected that the car park should be lit.
- details of the management of the collection of the waste and recycling from the service area will be required. Manual for Streets would suggest that the distance from the access point for the collection vehicle and the storage area is further than expected.

- details of the interface between the adopted and unadopted spaces will be required

In addition to the above a section 278 agreement will be required to ensure that the surrounding road infrastructure is suitably constructed to accommodate the following:

- The new car park entrances from Curzon Street and Royle Road are suitably constructed.
- To provide tactile paving across the adjacent footway links.
- Reconstruct some missing sections of footway
- Further details regarding the proposed turning head with bollards of Bankhouse Street
- A street lighting appraisal for the lighting on Royle Road, Curzon Street and Bankhouse Street
- A swept path analysis will need to be provided to ensure that vehicles such as a refuse collection vehicle can access the collection point.
- A Traffic Regulation Order will be required to amend the existing on street parking restrictions on Curzon Street, Bank House Street and Royle Road

It is noted that the previous application FUL/2020/0478 had a travel plan submitted with it. It is expected that this application follows the same travel plan, which does not appear to have been submitted at this with this application.

Environmental Health:

It is recommended that a noise assessment is carried out if any constraints exist that may need to be actioned prior to the granting of consent. If the planning department are minded to approve the application, the following conditions should be included:

- The submission of a Noise Assessment
- The submission of a Contaminated Land Assessment.
- The submission of a lighting scheme
- The submission of refuse storage details
- The submission of a Construction & Environmental Management Plan

A Noise Assessment and Contaminated Land Assessment was submitted in support of the initial application submission. The Council have requested additional comments from the Environmental Health Officer, the comments received will be presented in the committee update report.

Further comments have been received on the 8th March 2021 stating:

The information regarding noise is acceptable. However, I would like to point out that that there appears to be no long term tie in to the gas sampling potential and safety of the drillers and pilers. This monitoring could effectively add information to the risk assessment for gas contamination that seems simplistic on this sort of site. I would like to suggest further gathering of data during the hereby approved and proposed further drilling for grouting or piling and then gas sampling post piling to ensure no pathways have been created by the extensive ground engineering proposed.

Thus I would propose the following limited post ground grouting and piling works condition to be added to this development:

a) Submission of Remediation Scheme post grouting and piling A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and

historical environment must be prepared and submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

b) Implementation of Approved Remediation Scheme

(i) The approved remediation scheme must be carried out in accordance with its terms prior to the start of development (other than that required to carry out remediation), unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

(ii) Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced and submitted to and approved in writing by the Local Planning Authority.

c) Reporting of Unexpected Contamination

(i) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition a), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition b), which should be submitted to and approved in writing by the Local Planning Authority.

(ii) Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which must be submitted to, and approved in writing by the Local Planning Authority, in accordance with condition c) (ii).

d) Long Term Monitoring and Maintenance

(i) A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of time to be agreed in writing by the Local Planning Authority, and the provision of reports on the same must be prepared, both of which must be submitted to and approved in writing by the Local Planning Authority.

(ii) Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced and submitted to the Local Planning Authority.

The measures in condition e) must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy GP7 of the Burnley Local Plan, Second Review.

Canal & River Trust:

No comments to make

Environment Agency:

We object to this application as it appears to involve works within 8 metres of the River Brun, which is designated a Main River watercourse. As submitted, we are unable to determine whether or not we could grant a flood risk activity permit for this application.

The reasons for this are:

- 1) The extent of the Environment Agency 8 metre maintenance strip (as measured from the outside edge of the culvert and / or the landward side of any defence) is not identified and so the proposals do not demonstrate that our access to the main river will not be affected.
- 2) The proposed site plan (reference B9775-AEW-SI-XX-DR-A-523 P04; dated 15/01/21) shows various features along the north bank of the river and at the western side of the site, which appear to include planters, trees and other street furniture. Given that it is not clear what these structures are and how close they are to the watercourse / culvert, we cannot determine whether they would interfere with our access to the main river or not
- 3) The drainage general arrangements (plan reference 13065-500-P4; dated 22/01/21) show a proposed attenuation tank (Tank A) within an unstated distance of the main river culvert, it would appear from the plans that this tank is within 8 metres of the outside wall of the culvert. The effect of locating an attenuation tank on the integrity of the main river culvert has not been considered.

Subsequently, amended plans were submitted by the Agent addressing the concerns outlined above by the Environment Agency Officer. Additional Comments received Thursday 10th March 2021: which are addressed by recommend conditions set out.

Flood Risk

The revised plans address the majority of the concerns identified in our previous response dated 11 February 2021, however we have some remaining concerns. These concerns could be resolved through the submission of further information prior to the determination of the application or the use of pre-commencement conditions to resolve our concerns. In particular, we have the following concerns:-

Cladding the existing river wall has the potential to damage the existing wall structure and prevent future assessments of the structural condition of the wall in the future. It is also unclear if cladding is proposed on the land or river-ward side of the wall, or both. The cladding is likely to require a Flood Risk Activity Permit and this would be unlikely to be forthcoming. As such, cladding on the existing river walls should be removed from the proposal.

The four proposed electric car spaces are located within 8 metres of the river wall, but the charging infrastructure necessary to charge vehicles is not identified or shown on the plan. It is likely that the location of such infrastructure would be within 4 metres of the landward side of the river wall and would require a Flood Risk Activity Permit. Where such infrastructure prevented access or risked damage to the river walls or retaining structure, we would be unlikely to issue a permit for the necessary works. As such, the location of the electric vehicle charging points should be relocated to ensure no charging infrastructure is located within 8 metres of the landward side of the retaining walls or culvert.

Vehicular and pedestrian access to the river is provided via an existing ramp to the south of the downstream end of the culvert. This ramp is not identified on any plans, but it appears access would be retained. However, the location of several parking spaces to the front of the existing gates could restrict emergency access. The plans should demonstrate

how a permanent, unobstructed vehicular access to the River Brun via the existing ramp and access gates will be retained.

Based on the above, we request that any subsequent approval is conditioned as follows:-

Notwithstanding condition [**] [i.e. the condition requiring that the development is carried out in accordance with the approved plans] no development shall take place until the submission of the following details to the local planning authority:-

1. Plans to demonstrate the proposed timber cladding on the existing river walls have been removed from the development and details of any alternative works that would affect the appearance and / or structure of any river wall on site have been provided;
2. Plans to show the re-location of the four electric vehicle charging spaces such that there would be no charging infrastructure within 8 metres of the edge of the culvert or landward side of the retaining wall of the River Brun;
3. Plans to demonstrate that a permanent, unobstructed vehicular access to the River Brun via the existing ramp to the south of the downstream end of the culvert will be retained for the lifetime of the development

The submitted details should be approved in writing by the local planning authority and the development shall subsequently be carried out in accordance with the approved plans.

REASON To avoid any increase in flood risk associated with works adjacent to, or reduced access to, the River Brun

If the applicant wishes to submit additional plans / information to satisfy these requirements prior to the determination of the application, we can review the details submitted and review the need for this condition, either in part or in full.

We note that the amended plans still show soft landscaping within 8 metres of the edge of the River Brun. We understand that full details of hard and soft landscaping will be a pre-commencement condition if the application is approved. We request that we are consulted on any subsequent details submitted in relation to the discharge of a landscaping condition as it is possible that we may not be able to issue a Flood Risk Activity Permit for some landscaping details, particularly if they could permanently restrict our access to the River Brun.

For information, drawing number B9775-AEW-SI-XX-SK-A-035, which delineates our 8 metre access strip, is not measured accurately along the full length of watercourse through the site. The access strip should be measured from the edge of the culvert or the landward side of the retaining wall. As such, the applicant needs to be aware that there are parts of the site that would be subject to control through the Environmental Permitting Regulations but which are not shown on the plan.

Land Quality

We have reviewed the following report as submitted with the application:-

Additional Ground Investigation at Curzon Street Burnley, Vol 2 Interpretive Report dated November 2018, by CCG, ref no CCG-C-18-10479

We would offer the following comments in relation to the risk to controlled waters:

The investigation finds some areas of Asbestos Contaminated Ground, which are restricted to the south west part of the site south of the River Brun. The potential for this material to be used on the site is based upon how much level change is proposed. At

best, only 600mm of the site (below existing slab level) is described as a possible solution. Three of the samples were from 0.4 metres below ground, and so consideration needs to be given to suitable handling and appropriate disposal of these soils.

The potential for re-use on the site of soils is possible, and would be subject to the CLAIRE definition of waste code of practice, and appropriate remediation and or re-use methods (suitable depths).

Analysis of groundwater quality has found various PAH's within the soils, and as the site stands these are probably prevented from contaminating the watercourse due to the presence of the overlying bases from the previous development. Long term impact from these soils is assessed as low impact, and we would agree with this interpretation.

Assessment of the downstream water quality in the River Brun suggests that no impact is currently taking place. During redevelopment, however there is a potential for these soil to be exposed and so leache at a greater rate and we would like to see some proposal for appropriate surface water monitoring during development to ensure that this contamination does not seep into the watercourse.

We would suggest that at appropriate remediation plan is drafted and submitted and to include an associated validation / completion report to demonstrate that environmental conditions have been protected.

No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those offsite.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

REASONS To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

LCC Archaeology:

No objection subject to the following condition:

No development shall take place until the applicant, or their agent or successors in title, has secured the implementation of a phased programme of archaeological investigation, recording and analysis. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the site, as well as the proper reporting of that work and archiving of the project.

Lancashire Police:

No objection in principle but recommend a number of detailed security measures to mitigate the risk of crime or anti-social behaviour affecting customers, staff and the local community.

Coal Authority:

This application represents a resubmission of FUL/2019/0478. The Coal Authority does therefore not wish to raise any specific observations, but would reiterate our comments sent in January 2020, in response to that planning application, which remain valid in respect of this application.

The response received by the Council regarding application FUL/2019/0478 is, therefore, considered relevant to this application and states the following:

The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA imposes Planning Conditions should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

Accordingly, the Coal Authority recommends the imposition of the following conditions:

- 1. No development shall commence until intrusive site investigations have been carried out on site to establish the exact situation in respect of coal mining legacy features. The findings of the intrusive site investigation shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.*
- 2. Where the findings of the intrusive site investigations (required by condition 1 above) identify that coal mining legacy on the site poses a risk to surface stability, no development shall commence until a detailed remediation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.*
- 3. Following implementation and completion of the approved remediation scheme (required by condition 2 above) and prior to first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning*

Authority to confirm completion of the remediation scheme in accordance with approved details.

The Coal Authority therefore withdraws its objection to the proposed development subject to the imposition of the conditions to secure the above.

Local Plans & Policy Team:

No comments received

Local Lead Flood Authority (LLFA):

The Lead Local Flood Authority has no objection to the proposed development subject to the inclusion of the following conditions, in consultation with the Lead Local Flood Authority:

Conditions:

Condition 1 – Development is in accordance with the submitted Flood Risk Assessment

The development permitted by this planning permission shall be carried out in accordance with the principles set out within the flood risk assessment (HYD393_CURZON.STREET_FRA Rev 2.1 – 12/01/21) and drainage strategy (13065 Rev P3 – 22/01/21). The measures shall be fully implemented prior to first occupation of any dwelling and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority in consultation with the lead local flood authority.

Reason To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 163 and 165 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

Condition 2 – Final Sustainable Drainage Strategy to be submitted

No development shall commence in any phase until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the local planning authority. The detailed sustainable drainage strategy shall be based upon the site-specific flood risk assessment (HYD393_CURZON.STREET_FRA Rev 2.1 – 12/01/21) and drainage strategy (13065 Rev P3 – 22/01/21) submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems and no surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

Those details shall include, as a minimum:

- a) Sustainable drainage calculations for peak flow control and volume control (1 in 1, 1 in 30 and 1 in 100 + 40% climate change), with allowance for urban creep.
- b) Final sustainable drainage plans appropriately labelled to include, as a minimum:
 - i. Plan identifying areas contributing to the drainage network, including surface water flows from outside the curtilage as necessary;
 - ii. Sustainable drainage system layout showing all pipe and structure references, dimensions, design levels;
 - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
 - iv. Flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
 - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each plot to confirm minimum mm+ difference for FFL, as per FRA;
 - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;

vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protects groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;

c) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates and groundwater levels in accordance with industry guidance.

The sustainable drainage strategy shall be implemented in accordance with the approved details.

Reason To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 163 and 165 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

Condition 3 - Construction Phase Surface Water Management Plan

No development shall commence until details of how surface water and pollution prevention will be managed during each construction phase have been submitted to and approved in writing by the local planning authority. Those details shall include for each phase, as a minimum:

a) Measures taken to ensure surface water flows are retained on-site during construction phase(s) and, if surface water flows are to be discharged they are done so at a restricted rate to be agreed with the Lancashire County Council LLFA.

b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The development shall be constructed in accordance with the approved details.

Reasons:

1. To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue flood risk on site or elsewhere;

2. To ensure that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies.

Condition 4: Operation and Maintenance Plan & Verification Report of Constructed Sustainable Drainage System

No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report and Operation and Maintenance Plan for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority.

The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme (or detail any minor variations), and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of a final 'operation and maintenance manual' for the sustainable drainage scheme as constructed.

Details of appropriate operational, maintenance and access requirements for each sustainable drainage component are to be provided, with reference to published guidance,

through an appropriate Operation and Maintenance Plan for the lifetime of the development as constructed. This shall include arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a Management Company and any means of access for maintenance and easements, where applicable. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

Reason To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of Paragraph 165 of the National Planning Policy Framework.

Streetscene (Refuse):

No comments received

United Utilities:

We note the majority of surface water runoff is proposed to discharge into the River Brun, as existing. However, a linear drainage channel within area B appears to be proposed to connect into the public surface water network. We would kindly request evidence to demonstrate why surface water runoff from this area cannot also connect into the watercourse.

In the event that this information is not provided prior to determination, we would request the following conditions are attached to any subsequent decision notice:

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).
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority 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.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

Condition 2 – Foul water

Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

Park - Green Spaces & Amenities Unit:

No comments received

Health & Safety Team:

No comments received

Heritage & Conservation:

No comments received

Publicity:

The application was advertised with a press notice, site notices and letters to surrounding properties.

One letter of representation supporting the scheme for the following reasons:

- | |
|--|
| <ul style="list-style-type: none">• Benefit the economy of Burnley Town Centre;• Benefit nearby small businesses by bringing in new custom to the area. |
|--|

Planning and Environmental Considerations:

The main considerations in relation to this application are:

- Principle of the Development;
- Design and Layout;
- Amenity Impact;
- Highways, Accessibility and Impact on Traffic;
- Drainage and Flood Risk;
- Impact on Ecology and Trees;
- Impact on Heritage Assets;
- Contaminated Land; and
- Coal Mining Risks

Principle of the Development:

Policy SP1 of Burnley's Local Plan, adopted in July 2018, states that the Council will take a positive approach that reflects the presumption in favour of sustainable development set out in the National Planning Policy Framework (NPPF). It will work proactively with applicants and to find solutions which mean that proposals can be approved wherever possible to secure development that improves the economic, social and environmental conditions of the Borough. It also echoes the guidance in the NPPF by stating that "Planning applications that accord with the policies in this Local Plan... will be approved without delay, unless material considerations indicate otherwise".


The NPPF, at paragraph 80 states 'planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. The NPPF further states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

The application site is allocated in the Local Plan as being a 'Development Opportunities site in Burnley Town Centre' (TC4 Policy TC4/1). Policy TC4/1 indicates that, " the site is located within the Town Centre on the edge of the Primary Shopping Area and is suitable for a mix of retail, office and leisure uses comprising or including A1 uses together with other A2, A3, A4, B1a, C1 or D2 uses. C3 and A5 uses would only be acceptable as an ancillary part of a mixed-use scheme.

The Town and Country Planning (Use Classes) Order 1987 (as amended) essentially categorises different types of property and land into classes. A significant reform of the Use Classes Order was announced on 21 July 2020. On the 1st September 2020, the Town and

Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987. Due to this, A1, A2, A3 and B1a Uses now fall under the new Use Class E, Use Classes C1 and C3 remains as C1 and C3 and Use Class A5 now falls under the Use Class Sui Generis.

Use Class D2 has been split uses such as assembly and leisure facilities such as gymnasiums, indoor recreations not involving motorised vehicles or firearms fall under the Use Class E, whereas, assembly and leisure facilities such as cinemas, concert halls, bingo halls and dance halls fall under the Use Class Sui Generis.

TC4/1 – Former Pioneer, Curzon Street	Site Area 1.65 hectares
	
<p>The site is located within the Town Centre on the edge of the Primary Shopping Area and is suitable for a mix of retail, office and leisure uses comprising or including A1 uses together with other A2, A3, A4, B1a, C1 or D2 uses. C3 and A5 uses would only be acceptable as an ancillary part of a mixed use scheme.</p>	
<p>Additional and Site Specific Policy Requirements and Design Principles</p>	
<p>Uses</p> <ol style="list-style-type: none"> 1) A minimum of 1,500 sq.m (net) of A1 comparison floorspace must be included within the mix of uses. <p>Quality and Design</p> <ol style="list-style-type: none"> 2) 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 Way and Curzon Street to ensure an attractive and permeable edge to the town centre. 3) Key buildings should use a palette of materials which includes high quality locally distinctive materials in accordance with Policy SP5. High quality suitable and complementary contemporary materials and designs may also be acceptable. 4) The site is within an area at risk of flooding, the majority of it lying within Flood Zone 2. The layout and design of any development should take account of the recommendations of the Council's Strategic Flood Risk Assessment. Any development will need to be accompanied by a site specific Flood Risk Assessment in accordance with Policy CC4 and seek opportunities to reduce the overall level of flood risk in the area through the layout and form of the development and through the provision of an appropriate sustainable drainage scheme. 	

<p>5) The site has local archaeological significance. A formal programme of archaeological investigation is required including trial trenching and recording of surviving elements on site. Further investigation or recording works may be necessary dependent upon the results of the trial works.</p> <p>Public Realm</p> <p>6) Proposals should contribute to an improved public realm consistent with the Burnley Town Centre Public Realm Strategy SPD with clear, safe and convenient pedestrian linkages to the existing Primary Shopping Area. Bank House Street is setted and this surface could be incorporated into the new public realm scheme and the scheme should incorporate the River Brun as a feature. To reduce flood risk, improve the quality of the River Brun and enhance the amenity value it brings to the town centre public realm, the opening up of the culverted section of the river within the site should be explored, taking account of the Council's Strategic Flood Risk Assessment.</p>
<p>Supporting Information</p> <p>1) The River Brun crosses the site both as an open watercourse and in culvert. Proposals will need to take account of the easement requirements of the Environment Agency to provide unobstructed access to the open water course for inspection and maintenance.</p>

Policy TC4/1 (i) states that a minimum of 1,500sqm (net) of retail floorspace should be provided in the development. The amount proposed is 1184.5m², which is less than the identified amount and as a consequence the proposal is in conflict with criterion 1 of the policy. The applicant has set out as part of the submission why they consider a flexible approach should be taken when considering the Policy TC4/1 as a whole and guidance contained within the NPPF.

The uses proposed within the application proposal comprise retail and food and drink and a cinema which are all listed as acceptable and appropriate uses within Policy TC4/1 under the former Use Class Order (Town and Country Planning (Use Classes) Order 1987 (as amended)). The applicant has put forward their case as to why the proposal accords with the long-standing objective of national Government to focus main town centre uses in existing centres as to enhance their vitality and viability.

It is widely known and reported that many town centres are struggling as a result of a change in the way consumers meet their shopping needs. The growth of on-line shopping and home deliveries has resulted in the closure of some well-known national stores with local authorities and retailers tasked with re-purposing empty units and re-branding centres in order to attract inward investment and consumers back to the high street.

Following a period of investment in multiplex cinemas on out of centre retail parks it is encouraging to see a new wave of cinema lead regeneration in town centres such as Stockport, Chorley and Preston. Cinemas now offer a range of content including theatre shows, operas and conferencing appropriate for a range of ages throughout the day and into the evening. For these reasons food and drink operators are particularly interested in locating adjacent to new cinemas in town centres as visitors often meet with friends/ families for a drink or a meal before or after a trip to the cinema. This operational synergy has enabled the Council and Maple Grove to secure the relocation of Reel from Manchester Road to Pioneer Place and has generated interest in the development from national and local food and beverage operators.

Comprising approximately 2,931sqm of leisure and retail floorspace this is a significant development for the town creating a critical mass such that it will attract visitors from the across the borough and likely on a sub-regional level.

It is acknowledged that Policy TC4/1 refers to the provision of a minimum of 1,500sqm (net) of retail floorspace. The proposal as presented has the potential to provide 1184.5sqm sqm of retail floorspace falling short of the required floorspace. As stated, Britain's high streets have experienced rapid change over the past 12 months. Whilst some restaurant chains

have suffered, it is anticipated that the trend for eating out will remain buoyant. Awareness of this trend is at the forefront of the Curzon Street development with the provision of a predominantly leisure-based scheme. The applicant has responded positively to the rapid changes in the retail and leisure industry creating an opportunity for the town centre to grow and diversify in full accordance with paragraph 85(a) of the Framework in a manner which will secure the town centre's long-term vitality and viability.

The provision of class E development allows for the potential provision of 1184.5sqm. The new Class E allows for a mix of uses to reflect changing retail requirements. It will allow a building to be used flexibly by having a number of uses taking place concurrently or by allowing different uses to take place at different times of the day. Therefore, given that this application secures more potential retail floorspace than the previously approved 2019 application it is considered that as such an appropriately worded condition restricting the units to either a retail or food and drink establishment is justified. It must be considered, therefore, that material reasons exist for allowing a reduced retail offer in this case.

The Council have been made aware that due to the site restraints, which include retaining walls and site levels, it has not been possible to incorporate built development into the north eastern area of the site. This has resulted in the developable area being reduced and such, it is considered that a reduced figure can be deemed acceptable in this instance.

Additionally, the role and function of town centres has in recent times begone to change with the way in which consumers meet their shopping needs. The growth of the on-line retail sector and home deliveries has resulted in well-known national chain store closures over recent years. This has placed significant pressure on local authorities and retailers who are tasked with re-purposing empty units and rebranding centres in order to attract inward investment and consumers back to the high street.

The Local Government Association produced guidance on 'Revitalising town centres' (2018) notes a report on eating out in town centres, by Springboard and the NPD Group, improved performance of high streets is being driven by a booming and inventive food and drink sector. The report estimates population growth will lead to 800 million more eating out visits by 2027. Whilst day-time footfall has declined cumulatively by 3 per cent since 2013, footfall post-8pm has risen 1.4 per cent.

National planning policies have sought to ensure the vitality of town centres. Nationally Planning Policy Guidance Paragraph 001 notes that evening and night-time activities have the potential to increase economic activity within town centres and provide additional employment opportunities. They can allow town centres to diversify and help develop their unique brand and offer services beyond retail. The NPPF advises that planning policies should, define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters.

It has been demonstrated that the proposal complies with the Burnley Local Plan and in particular Policies TC4/1 and SP5 and the Framework as a whole. Where the development is not fully compliant with criteria (a) of Policy TC4/1 regard should be had to paragraph 85(a) of the Framework which seeks to ensure that town centre policies are able to respond to rapid changes in the retail and leisure industries. The proposed development provides an agile response to the changing face of the high street with the provision of a leisure lead development to ensure the long-term vitality and viability of the town.

Policy SP5 of the Local Plan states that the Council will seek high standards of design, construction and sustainability in all types of development. Policy SP5 goes on to further

states that any new development should incorporate measures to minimise energy and water consumption and a BREEAM assessment should be carried out for all non-residential development with a floor space above 1,000m² and a rating of 'Very Good; or better will be achieved.

BREEAM measures sustainable value in a series of categories, ranging from energy to ecology. Each of these categories addresses the most influential factors, including low impact design and carbon emissions reduction; design durability and resilience; adaptation to climate change; and ecological value and biodiversity protection. Obtaining BREEAM certification helps deliver and validate the sustainability value of the assets cost effectively and to an internationally recognised and robust standard. BREEAM helps clients manage and mitigate risk through demonstrating sustainability performance during planning, design, construction, operation or refurbishment, helping to lower running costs, maximise returns through market value and attract and retain tenants with desirable places to live and work.

The design has considered materials efficiency. Whilst no formal BREEAM assessment has been submitted, as noted in the submitted energy statement report all materials will be responsibly sourced and where possible will be green guide 'A' rated to minimise the embodied carbon and achieve maximum BREEAM credits. The report also outlines the adoption of a number of energy efficiency measures which will be incorporated into the scheme and how sustainable low energy and carbon reduction strategies have been integrated into the proposed development. Whilst the proposal does not seek to formally measure itself against BREEAM standards the applicant and design team has sought to combine sustainability measures as far as is practicable possible.

Thermal modelling of the proposed fabric strategy will be carried out to ensure that the buildings will perform effectively. All materials will be responsibly sourced and wherever possible will be green guide 'A' rated to minimize the embodied carbon. Where possible, existing materials will be re-used on site, for example the stone retaining wall that surrounds the upper car park.

During the construction phase the contractor will be required to monitor the site impacts through the use of an Environmental Management Scheme. A Site Waste Management strategy will be implemented by the main contractor to minimize waste, particularly waste sent to landfill. A high-quality landscaping scheme will be provided across the development increasing biodiversity gains.

All internal and external lighting systems will incorporate energy efficient lamps including LED lamps and high frequency control gear. Air Source Heat Pumps will be incorporated into the proposed development as a method of providing heating and cooling to the individual units and cinema.

The site is ideally located to optimize use of public transport, lying in the town centre, thus reducing the need to travel to the development by private car. There are also opportunities for linked trips on foot with other services and facilities in the town centre.

Through a combination of targeted measures throughout the design, construction and operation the development will ensure that key performance indicator targets are met.

On balance, the principle of the development is, therefore, accepted and encouraged, in accordance with Local Plan Policies and NPPF's presumption in favour of sustainable development, which should proceed without delay; acknowledging its requirement for planning to support economic development, identifying and responding positively to opportunities for growth and promoting the vitality of urban areas, taking into account their different roles and characters.

Design and Layout:

Paragraph 124 of the NPPF states the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. This is reiterated within Policy SP5 states, amongst other things, that the Council will seek high standards of design, construction and sustainability in all types of development.

Policy TC4/1 further states: The site is located on a key gateway into Burnley Town Centre and therefore an opportunity exists to create a new townscape and a positive and appropriate relationship with surroundings buildings and spaces. A substantial building of high quality is envisaged to the north west corner of the site (a minimum of three storeys) addressing Active Way, with specific attention also given to the frontages to active way and Curzon Street to ensure an attractive and permeable edge to the town centre. Key buildings should use a palette of materials which includes high quality locally distinctive materials in accordance with policy SP5. High quality suitable and complementary contemporary materials and designs may also be acceptable.

In respect of design and layout, a detailed Design and Access Statement accompanies the application, and sets out the key design principles which are taken forward in the application proposals design response, reflecting not only the policy requirements but the comments given by officers as part of pre-application discussions. These design driver considerations include:

- Raising the profile of Burnley town centre as a leisure destination / night time economy
- Varying the towns retail and leisure offer
- Improve links to the bus and railway stations
- Introducing a development of modern architectural design
- Providing active frontage and a new public square
- Enhancing public realm
- Enhancing arrival points
- Reducing the impact of Active Way as a barrier to the town centre
- Providing high quality units
- Provide a future development plot on the temporary car park site

The scheme was developed to create a high quality scheme, reflected in both the treatment of the building and the public realm. The scheme has been amended since the previously approved scheme FUL/2019/0478 to create a strong axis between the car park and building, directing views through the site towards the listed building and viaduct. The retail / restaurant units flank the walkway with space to spill out onto external seating areas – all South facing to maximise sunny areas.

The lowering of the retail / restaurant units exposes the cinema above them, allowing views over the top of the units towards the foyer, and being visually prominent from the town centre.

The main square within the public realm is situated in the centre of the scheme outside the cinema entrance. This allows for a flexible public square which can take on a variety of uses throughout the year (Christmas markets, festivals, installations etc.), and is fed by pedestrian routes into the site from Royle Road, Active Way and Curzon Street. Further design

development resulted in the widening of the pedestrian walkway to create a drop-off point in front of units 3 - 5.

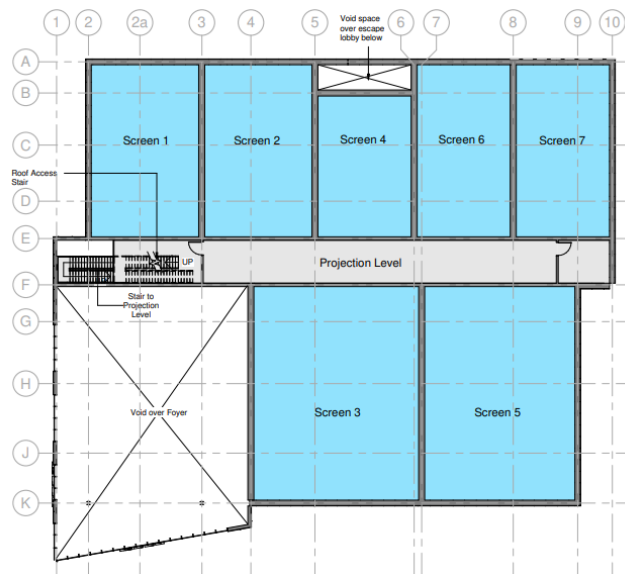
The result is the creation of high-quality contemporary scheme comprising a feature building at Active Way with use of more traditional materials and colours found in the locality throughout the balance of the development. The development integrates well into the town centres existing fabric and will comprise a new area of public realm.

The prominent location of the proposal means that it is important to link sympathetically to its surrounding context and the existing town centre uses. The existing townscapes slope down towards the centre of the site and the listed Town Mouse to the West. The proposed development does not exceed the height of the listed viaduct. It is important that the buildings have enough height to create an established development, particularly the cinema which will act as a landmark and anchor in the site, without negatively impacting on the heritage assets in the surrounding context. The stepped massing helps to break down the large scale mass of the cinema and create visual interest across the terraced layout of the retail / restaurant units. The proposed location of the cinema also utilises the existing site level difference to minimize the impact to Curzon Street but create a focal point from Active Way round-about.

Large areas of glazing will announce the entrances to the buildings can create active frontage, particularly in the evening when the cinema and restaurants are likely to be busiest. The glazed corner to the cinema units announces this as a key corner and focal point of the scheme, differentiating it from the retail / restaurant units. Wrapping over the glazing to create 'goalposts' will help to define the retail / restaurant units and bring the scale of the development down to a more human scale.

Cinema – Unit 1:

Unit 1 (cinema) will act as the landmark unit providing a focal point in the centre of the development. The cinema will be visible from the pedestrian entrance off Curzon Street due to its height and glazed foyer area which protrudes forward of the main building into the public realm area. It will also be highly visible from Active Way and Royle Road, meaning it is ideally placed to draw students across from the Burnley College / UCLAN development on the other side of Active Way. The ground floor contains 7 cinema screens with associated internal supportive space / concourse area and foyer. Each screen will have an emergency exit at ground level. Plant is located on the roof, and the bin store is provided externally to the rear of the unit.



Unit 1 Proposed Floor Plan

The cinema building will act both as an anchor of the whole development and prominent to the site context. The architectural aim is to create a landmark building and beacon to the site whilst keeping a similar colour / material palate, so the development reads as a whole. Despite being a larger building than the adjacent units, the cinema by nature will have much less of an active frontage. The glazing to the main foyer will allow for views into the entrance area, casts light into the public realm in the evenings, whilst also creating a defined entrance to the cinema.

The proposed material is predominantly a metal cladding panel, coloured in three tones of grey. Increased glazed areas to the foyer area of the cinema will help to highlight the entrance, the bronze cladding that will wrap around the foyer announcing the entrance to the cinema.

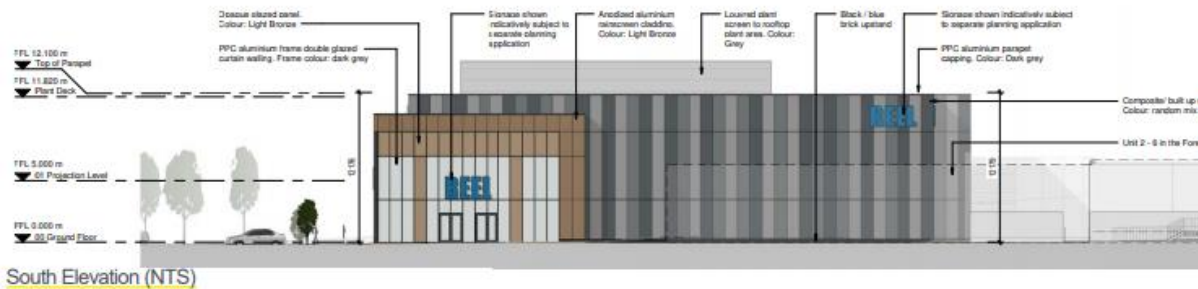
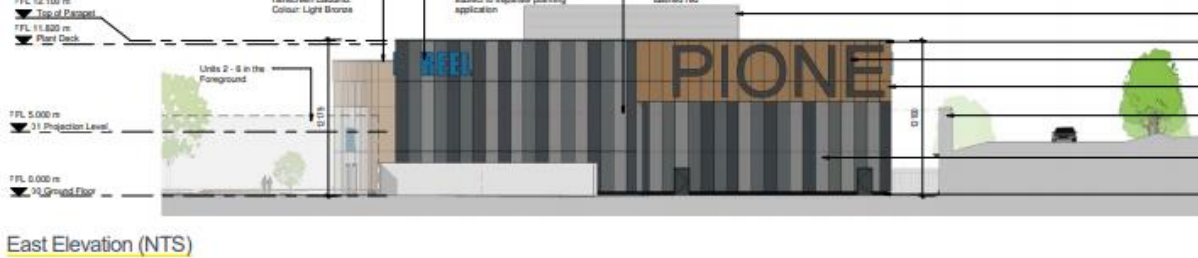
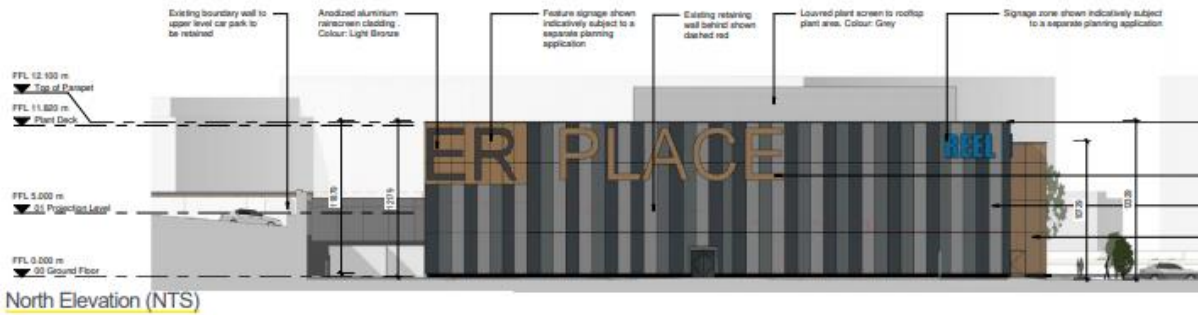
The North East corner is considered a key corner as it will be visible on the approach to the cinema from both the road network and the public footpath network surrounding the site. The change in the colour of the cladding helps to announce the site with a supergraphic on the corner. It delivers an architectural merit to the façade instead of using a glazed active frontage which is not suitable for the function of the cinema.

The use of horizontal joints will reduce the scale of the building and also tie through around the whole building, 'knitting' the bronze and grey masses together so it reads as one building. Vertical joints will be expressed in bronze cladding, and the striped grey of the main cinema mass breaks up the façade vertically.

In the interests of place making, and in contrast to the original planning permission, the proposed cinema building now faces outwards towards both the new public realm and Active Way. Previously the development's most prominent building turned its back on Active Way with limited opportunities to create an active frontage to the roundabout due to the nature of the use of the building. The orientation of the cinema building formerly served to screen the development from view from key vantage points on Active Way creating a much weaker sense of arrival to Pioneer Place, and indeed the town centre.

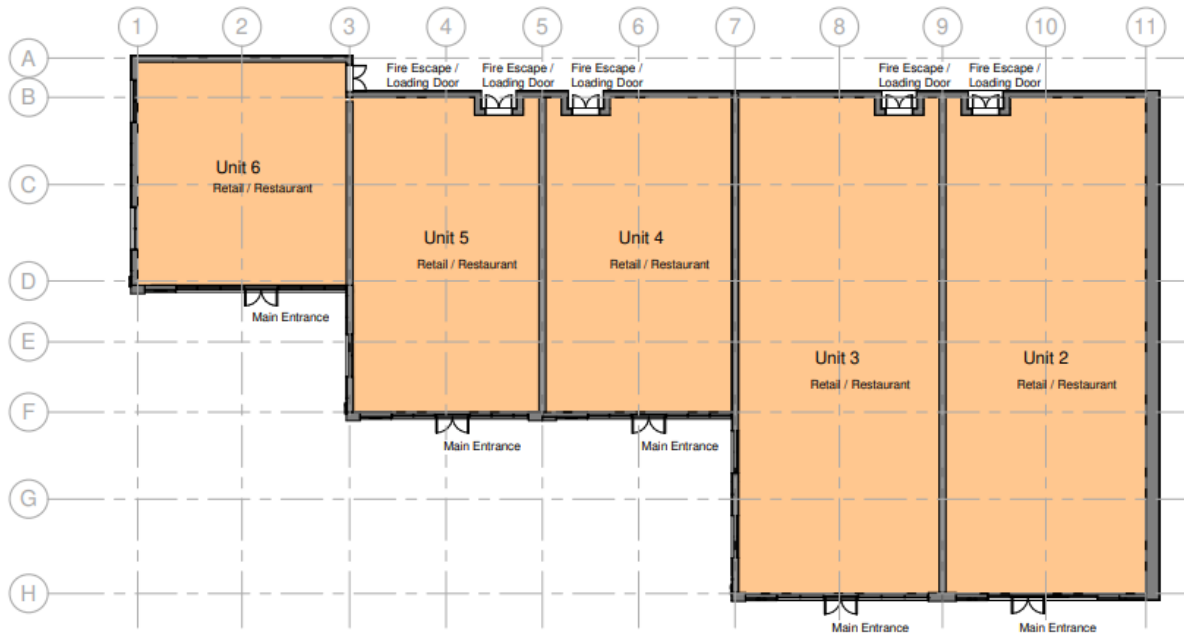
In contrast in the revised scheme the cinema building is set back within the development and is now a legible building; easily identified as a key town centre use. Its blank rear elevations are screened by landscaping along Bankhouse Street. With the provision of high-quality hard landscaping, structured tree planting adjacent to the cinema building and an attractive lighting scheme this will serve to further lift the overall quality of the development ensuring it is worthy of its gateway status.

Policy TC 4/1 of the Local Plan requires the provision of a substantial building of high quality to the north west corner of the site addressing Active Way. However, this application comprises what can be described as Phase I with the provision of a temporary car park to the north west corner of the site for development at a future date. This would form Phase II of the overall development and would need to address the requirements of Local Plan Policy TC 4/1. In the event that Phase II does not come forward then for the reasons stated above the proposed development meets the aspirational design requirements of Policy TC4/1 of the Local Plan.



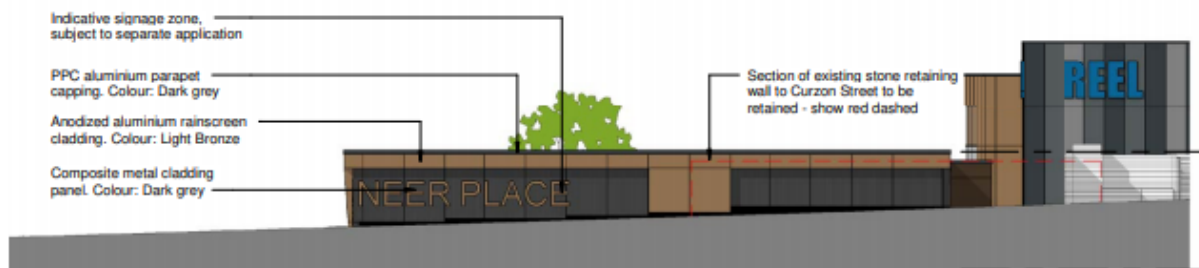
Units 2-6:

The proposed 5 retail / restaurant units flank the public realm through the site from Curzon Street. This allows them to mark the entrance to the site, turning the corner from Curzon Street, and provides South facing external seating areas for restaurant users. The back of house area is located to the rear of the units accessible from each unit by a dedicated service route running the length of the terrace. This will be shielded from view by the buildings themselves and the retaining wall to the rear. The units are terraced to work with the site and diagonal axis of the public realm. This also creates variation in unit sizes across the terrace. All units are entered from the front, with a fire escape and service door to the rear. Glazing to the front of the units creates an active edge to the public realm, with windows in the Western sides to provide animation and activity when viewed from the new square / river walk.



Units 2-6 Proposed Floor Plans

The elevations to unit 2-6 share a design style and unifying palate of materials. This means that even though the massing is stepped, the units read as a terrace. Each unit will have a bronze-toned goalpost with chamfered verticals which create a deep reveal whilst allowing views past each unit. The dark grey cladding which will wrap over the glazing will create a signage zone and helps reduce the scale and prominence of the glazing. The material palette compliments the surrounding context of the cinema and the built form of the town centre. Horizontal and vertical joints are expressed within the cladding to break up the façade. Dark grey composite cladding form the signage zone. This is coupled with dark grey window frames, parapet capping and details and a black facing brick base.



East Elevation (NTS)



West Elevation (NTS)



The car park is to be enclosed to the south to harmonise with the existing multi- storey cark and provide safety and security to users of the site. This design approach ensures the development sits well within the context of the area, reduces the visual impact on the surrounding buildings, and is positioned to frame the public realm and reduce harm to the Grade II Public House.

Policy TC4/1 refers to improved public realm. Integrating the development into the town centre is a new public realm. At the centre of the development is an area defined within the Design and Access Statement. This is an area characterized by attractive paving, lighting, seating and planting. The intention is that this area will provide an opportunity for casual event space in the town centre. It will also provide a space to meet and greet friends and family whilst using the facilities at Pioneer Place. In order to accommodate a change in levels between the site and Curzon Street the development comprises a set of steps which double as a casual seating area linking the development to the town centre; creating a vibrant edge to Pioneer Place.

Care has been taken by the applicant to analyse the routes through around the development. The pedestrian route through the site from Active Way to Curzon Street is a considered route lined by trees to the forefront of the cinema, drawing visitors in and through the development in the direction of the town centre.

A fully detailed hard and soft landscaping scheme will be submitted to the Council as part of the discharge of conditions process. This will soften the built form.

On balance, the proposed scheme is considered to be well designed, forming a sympathetic yet contemporary addition to the surrounding area. Construction materials are key to the design, and it is considered important to ensure that those used are sympathetic to the surrounding area so as not to compromise the overall appearance of the locality.

As such, a condition requiring material samples to be submitted is recommended. In summary, the comprehensive details submitted relating to the design and layout of the proposal are considered to demonstrate that the building and infrastructure accords with the provisions of the relevant policies of the development plan, and landscaping details can be finalised by way of planning condition.

Amenity Impact:

Policy SP5 requires development to ensure there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reason of

overlooking. Additionally, development should not result in unacceptable conditions for future users and occupiers of the development.

The Council does not have any prescribed minimum separation distances between dwellings and community buildings, such as a cinema. However, minimum distances of 20m between habitable room windows are identified within the Council's adopted Local Plan. A figure that can be revised upwards by 3m if there is a substantial difference between building heights or levels. The proposal would adequately safeguard existing residential amenities and provide satisfactory amenity for new occupiers/users of the development which would comply with Policy SP5.

The application has also been accompanied by a comprehensive suite of documents including a Noise Assessment which have been reviewed by the Council's Environmental Health Team and found acceptable subject to the development being carried out in accordance with the recommendations of the Noise Assessment.

Given the town centre location, the consideration that the surrounding area is predominantly commercial in character. There are no known residential properties that would suffer a loss of amenity from unrestricted hours. This is also considered to be same for the nearby commercial buildings. There are not considered to be any other nearby receptors that would suffer any unacceptable amenity impacts from the introduction of the proposed development.

Subject to the recommended conditions the proposal is considered to be compliant with the development plan and can be adequately controlled to ensure compliance with the Council's Development Plan and the NPPF.

Highways, Accessibility and Impact on traffic:

Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are 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 Local Plan Policy IC1 seeks to promote sustainable travel and safe pedestrian, cycle and vehicular access, including adequate visibility splays. Policy IC2 seeks to manage transport and travel impacts from development. Policy IC3 identifies car parking standards that should be provided for developments appropriate to the nature and scale.

A Transport Statement (TS) and drawings accompanied the submitted application and have been reviewed by the Local Highway Authority. The assessment evaluates the existing transport and highways context of the site, access, parking and servicing conditions and trip generation. This allows an assessment to be made as to whether the highways network has the capacity to accommodate the potential increases in traffic as a result of the proposed development.

The TS offers evidence to support the assertions made in relation to the trip generation and traffic impact of the proposed development and that whilst there will be some time specific impacts upon the surrounding highway network it would not be to the detriment of road safety or the safe, efficient and convenient movement of all highway users.

The applicant's report concludes that the site is located in a sustainable town centre location which is highly accessible on foot, by cycle and is also accessible by public transport. The number of vehicle trips generated by the proposed cinema can be considered as negligible, having no material traffic impact on the local roads and junctions in the vicinity of the site. The proposed car park access and egress junctions are acceptable in capacity terms.

The Local Highways Authority Officer has reviewed the accompanying documents and drawings and offers no objection in principle subject to a number of issues being addressed which are identified in the Highways Comments section of this report. These will be addressed through the imposition of appropriately worked conditions

Subject to the addressing the additional details required or through the imposition of appropriately worded conditions, the proposal would not have a severe impact on the local highway network and complies with Policies IC1 and IC3 and the NPPF.

Drainage and 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 site is in flood zones 1, 2 & 3 where there is a high risk of flooding. Drainage proposals have been submitted with the application.

Following review of a supporting Drainage Strategy Report, subject to the application of conditions to ensure implementation of an appropriate scheme of surface drainage and the separate drainage of surface and foul water the proposal is considered to accord with Policy CC4 of the Local Plan.

The Environment Agency have raised a number of concerns regarding avoiding any increase in flood risk associated with work adjacent to, or reduced access to, the River Brun and the integrity of the structural river wall. They have confirmed that their objection to the scheme is removed subject to the attachment of a number of conditions.

The planning agent has confirmed that they do not intend to physically attach any cladding to the wall as its structural integrity is uncertain. To ensure that the proposed development does not impact upon the river wall, its integrity and to ensure the development avoids any increase in floor risk an appropriately worded condition will be attached requesting the submission of a scheme to screen the river wall will be submitted to, and approved in writing by the Local Planning Authority and a plan to demonstrate that a permanent, unobstructed vehicular access to the River Brun via the existing ramp to the south of the downstream end of the culvert will be retained for the lifetime of the development prior to commencement of the development.

The Council are of the opinion that Condition 22 of the conditions stated within this report which requires the submission of a scheme to be submitted regarding provision of the electric vehicle charging points, including their location and specification addressed point 1 of the EA objection as stated within the Environmental Health comments section of this report.

Impact on Ecology and Trees:

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 application has been accompanied by a Ecological Survey and Assessment presents the results of the Phase 1 Habitat Survey. Licensed bat surveys (include within this report) were also carried out. The report concludes that:

- i) The proposals will have no adverse effect on statutory or non-statutory designated sites for nature conservation.
- ii) None of the habitats within the site are of significant interest in terms of their plant species composition or are representative of a semi-natural habitat. The

- NVC communities present are typical of the geographical area and conditions present. The site contains only common and widespread plant species.
- iii) The trees and shrubs are of 'site' value only, as they contribute to the diversity of habitats within the site and are suitable for use by nesting birds.
 - iv) The River Brun in the west of the site is of local value and provides habitat connectivity to the wider area. The river and a suitable buffer will be retained in accordance with the proposals. Measures to ensure the protection of the river during works and further surveys required if the river will be affected by the proposals.
 - v) Invasive species listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) namely Wall Cuckoo-spit was detected. This does not preclude development but it is an offence to cause the spread of this species in the wild.
 - vi) Habitats associated with the River Brun have a low suitability for foraging and commuting bats. The trees and shrubs within the site are suitable for use by nesting birds. Mandatory actions to protect nesting birds during site clearance and measures to provide compensatory opportunities for nesting birds are recommended and can be achieved by the proposals.

A Tree Survey and Constraints Report was undertaken as several trees are due to be removed from the development site to facilitate the development of the scheme. Existing trees close to the site boundary at Active Way are proposed to be retained and incorporated into the development. The accompanying landscape proposals will see the increase in the number of trees and planting within the site alongside improvements to biodiversity. The proposal includes 18 new trees, areas of new planting with a mix of shrub and perennial species and management of the vegetation to the River Brun.

The proposals will secure an opportunity to implement beneficial measures such as habitat creation that will safeguard habitats for wildlife such as birds and bats, with the aim of providing a net gain in biodiversity in accordance with the principles of the Framework. It has been recommended that two house sparrow terrace nest boxes are installed into the proposal.

Development at the site will provide an opportunity to secure ecological enhancement for wildlife associated with commercial development. It is concluded that the proposals are feasible and acceptable in accordance with ecological considerations. Subject to the development being carried out in accordance with the agreed details the development is considered to accord with Policy NE1 and is acceptable in this regard.

Impact on Heritage Assets:

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.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 confers upon local planning authorities a duty to have special regard to the desirability of preserving the interest of a listed building or its setting.

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 lies to the northeast of the historic Weavers' Triangle and while the site itself does not fall within a Conservation Area, the boundaries of three Conservation Areas (Burnley Town Centre, Weavers' Triangle and Top O' Th' Town Conservation Areas) lie a relatively short distance to the site. A grade II listed pub, the Town Mouse, lies directly west of the site.

The application has been accompanied by a Heritage statement that concluded the proposed development will inevitably result in some change to the area with potential to affect the setting of numerous statutorily designated and locally-listed and non-designated heritage assets. The report further identifies that the direct impact from proposed development is limited to affecting remnant section of wall and potential buried archaeological deposits on site. There will be some indirect impact on the setting of nearby listed and locally listed buildings as a result of the scheme, however, this is considered to detrimentally harm the designated heritage assets in the locality.

An archaeological recording/investigation condition is necessary to deal with any archaeological interests there may be on the site and a condition is recommended to deal with this.

It is concluded that the proposals will not result in any perceived harm to designated heritage assets in the locality. The proposed development complies with both local and national planning policy guidance in relation to the historic environment including BLP Policies TC4/1 and HE1 and paragraph 195 of the NPPF.

Contaminated Land:

The application was accompanied by a comprehensive Phase 1 Desk Top Study and Phase 2 geo-environmental assessment in relation to the ground conditions. Following review by Environmental Health colleagues no objection to the principle of the development has been offered subject to the attachment of a condition requiring further gathering of data during the hereby approved and proposed further drilling for grouting or piling and then gas sampling post piling to ensure no pathways have been created by the extensive ground engineering proposed. A suitably worded condition will be attached.

Coal Mining Risks:

The Coal Authority has advised that mining records indicate the site may have been subject to past coal mining activities, which may include historic recorded and unrecorded underground coal mining at shallow depth. Whilst the applicant has provided some details to demonstrate the suitability of the site for development additional information is still required to fully address the risk associated with developing the site. A suitably worded condition will be attached ensuring the submission of further details to the Local Planning Authority prior to the commencement of works will be attached.

Conclusion:

In considering the proposal, a wide range of material considerations have been taken into account and the development is considered to have sufficient merit to achieve compliance with the Development Plan.

Recommendation: Approve subject to conditions set out below:

Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission.

Reason: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby permitted shall be carried out in accordance with submitted technical reports, supporting information and 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 construction of the building above slab level hereby approved, samples of all external materials, and their colour, to be used in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

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

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

5. No building or use hereby permitted shall be occupied or use commenced until a delivery and servicing plan has been prepared, submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be implemented in accordance with the approved delivery and servicing plan for the lifetime of the development. The delivery and servicing plan shall include:

- The contact details of a suitably qualified co-ordinator;
- How vehicle arrivals, departures, parking, stopping and waiting will be controlled to minimise any impact on the adopted highway;
- Details of any freight consolidation operation, centre and the delivery and servicing booking and management systems.

Reason: In the interests of highway safety and to minimise the impact of vehicles servicing the development upon congestion.

6. No building or use hereby permitted shall be occupied or use commenced until a Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared,

submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets to the satisfaction of the Local Planning Authority.

Reason: In order to deliver sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking & cycling.

7. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed public area within the development, including written confirmation that it will not be offered to the highway authority for adoption, have been submitted to and approved by the local planning authority. The streets shall be maintained in accordance with the approved management and maintenance details thereafter.

Reason: - In the interest of highway safety; to ensure a satisfactory appearance to the street infrastructure serving the approved development; and to safeguard the users of the street and visual amenities of the locality.

8. No building or use hereby permitted shall be occupied or use commenced until drop kerbs have been installed at the carriageway edge and a vehicle cross-over constructed across the footway (and/or verge) fronting the site in accordance with the approved plans and the Lancashire County Council Specification for Construction of Estate Roads, to be retained in that form thereafter for the lifetime of the development.

Reason: In the interests of pedestrian safety and accessibility.

9. Reinstatement of redundant access. No building or use hereby permitted shall be occupied or use commenced until the footway (and/or verge) has been reinstated to full kerb height, where any vehicle crossover(s) are redundant, in accordance with the approved plans and the Lancashire County Council Specification for Construction of Estate Roads, to be retained in that form thereafter for the lifetime of the development.

Reason: To maintain the proper construction of the highway and in the interest of pedestrian safety.

10. No development shall take place, including any works of demolition or site clearance, until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority. The approved plan / statement shall provide:

- 24 Hour emergency contact number;
- Details of the parking of vehicles of site operatives and visitors;
- Details of loading and unloading of plant and materials;
- Arrangements for turning of vehicles within the site;
- Swept path analysis showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available and maintained, including any necessary temporary traffic management measures;
- Measures to protect vulnerable road users (pedestrians and cyclists);
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

- Wheel washing facilities;
- Measures to deal with dirt, debris, mud or loose material deposited on the highway as a result of construction;
- Measures to control the emission of dust and dirt during construction;
- Details of a scheme for recycling/disposing of waste resulting from demolition and construction works;
- Construction vehicle routing;
- Delivery, demolition and construction working hours.

The approved Construction Management Plan or Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: - In the interests of the safe operation of the adopted highway during the demolition and construction phases.

11. Construction of the development hereby permitted shall not take place outside the hours of 07:00 and 19:00 Monday to Saturday and not at all on Sundays or Bank Holidays.

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

12. 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).
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority 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.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

13. 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).

14. No development shall take place until the applicant, or their agent or successors in title, has secured the implementation of a phased programme of archaeological investigation, recording and analysis. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the site, as well as the proper reporting of that work and archiving of the project.

15. (a) Prior to the commencement of development a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(b) Implementation of Approved Remediation Scheme:

- i. The approved remediation scheme must be carried out in accordance with its terms prior to the start of development (other than that required to carry out remediation), unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.
- ii. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced and submitted to and approved in writing by the Local Planning Authority.

(c) Reporting of Unexpected Contamination

- i. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition a), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition b), which should be submitted to and approved in writing by the Local Planning Authority.
- ii. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which must be submitted to, and approved in writing by the Local Planning Authority, in accordance with condition c) (ii).

d) Long Term Monitoring and Maintenance

- i. monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of time to be agreed in writing by the Local Planning Authority, and the provision of reports on the same must be prepared, both of which must be submitted to and approved in writing by the Local Planning Authority.
- ii. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced and submitted to the Local Planning Authority.

The measures in condition e) must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy GP7 of the Burnley Local Plan, Second Review.

16. Submission of general arrangement drawings and a scheme for the phasing of the S278 works to be submitted prior to commencement of the development hereby approved. These proposals should include the provision of taxi parking proposals on Bankhouse Street, the identification of highway boundaries and land to be offered up for adoption and identification of any existing structures that may require adoption.

Reason: In the interests of public safety and to ensure that all road works associated with the proposed development are: planned; approved in good time (including any statutory processes); undertaken to a standard approved by the Local Planning Authority and are completed before the development is brought into use.

17. No development shall commence until intrusive site investigations have been carried out on site to establish the exact situation in respect of coal mining legacy features. The findings of the intrusive site investigations shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure that any risks in relation to historic coal mining/works are adequately dealt with, in the interests of public health, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).

18. Where the findings of the intrusive site investigations (required by condition 17 above) identify that coal mining legacy on the site poses a risk to surface stability, no development shall commence until a detailed remediation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.

Reason: To ensure that any risks in relation to historic coal mining/works are adequately dealt with, in the interests of public health, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).

19. Following implementation and completion of the approved remediation scheme (required by condition 18 above) and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

Reason: To ensure that any risks in relation to historic coal mining/works are adequately dealt with, in the interests of public health, in accordance with Policy NE5 of Burnley's Local Plan (July 2018).

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the premises shall only be used for the purposes of retail (Class E(a)) or a food and drink (Class E(b)) premises specified in the application and for no other purpose (including any other purpose in Class E on the Schedule to the Town and

Country Planning (Use Classes) Order 1987 or any provision equivalent to that Class in any Statutory Instrument revoking and/or re-enacting that Order).

Reason: To safeguard amenities of the adjoining premises and the area generally in accordance with Policies SP1, SP4, SP5 and TC4 of the Local Plan.

21. A hard and soft landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority and implemented before the development hereby approved is brought into use. The scheme shall include details of materials to be used for hard surfaces, boundary treatments, trees and shrubs to be planted (with their siting and planting distances), and planting shall be implemented during the first available planting season. Trees and shrubs dying or becoming diseased, removed or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and/or shrubs.

Reason: To ensure that there is a well laid hard and soft landscaping scheme in the interests of amenity and highway safety.

22. 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 implemented before the car park hereby approved is brought into use.

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

23. The development permitted by this planning permission shall be carried out in accordance with the principles set out within the flood risk assessment (HYD393_CURZON.STREET_FRA Rev 2.1 – 12/01/21) and drainage strategy (13065 Rev P3 – 22/01/21). The measures shall be fully implemented prior to first occupation of any unit and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority in consultation with the lead local flood authority.

Reason To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 163 and 165 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

24. No development shall commence in any phase until a detailed, final surface water sustainable drainage strategy for the site has been submitted to, and approved in writing by, the local planning authority. The detailed sustainable drainage strategy shall be based upon the site-specific flood risk assessment (HYD393_CURZON.STREET_FRA Rev 2.1 – 12/01/21) and drainage strategy (13065 Rev P3 – 22/01/21) submitted and sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems and no surface water shall be allowed to discharge to the public foul sewer(s), directly or indirectly.

Those details shall include, as a minimum:

- a) Sustainable drainage calculations for peak flow control and volume control (1 in 1, 1 in 30 and 1 in 100 + 40% climate change), with allowance for urban creep.
- b) Final sustainable drainage plans appropriately labelled to include, as a minimum:
 - i. Plan identifying areas contributing to the drainage network, including surface water flows from outside the curtilage as necessary;
 - ii. Sustainable drainage system layout showing all pipe and structure references, dimensions, design levels;
 - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
 - iv. Flood water exceedance routes in accordance with Defra Technical Standards for Sustainable Drainage Systems;
 - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each plot to confirm minimum mm+ difference for FFL, as per FRA;
 - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;
 - vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protects groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;
- c) Evidence of an assessment of the site conditions to include site investigation and test results to confirm infiltrations rates and groundwater levels in accordance with industry guidance.

The sustainable drainage strategy shall be implemented in accordance with the approved details.

Reason To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraphs 163 and 165 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

25. No development shall commence until details of how surface water and pollution prevention will be managed during each construction phase have been submitted to and approved in writing by the local planning authority. Those details shall include for each phase, as a minimum:

- a) Measures taken to ensure surface water flows are retained on-site during construction phase(s) and, if surface water flows are to be discharged they are done so at a restricted rate to be agreed with the Lancashire County Council LLFA.
- b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance.

The development shall be constructed in accordance with the approved details.

Reasons:

1. To ensure the development is served by satisfactory arrangements for the disposal of surface water during each construction phase(s) so it does not pose an undue flood risk on site or elsewhere;
2. To ensure that any pollution arising from the development as a result of the construction works does not adversely impact on existing or proposed ecological or geomorphic condition of water bodies.

26. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report and Operation and Maintenance Plan for the lifetime of the development, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority.

The Verification Report must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme (or detail any minor variations), and contain information and evidence (including photographs) of details and locations (including national grid reference) of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an final 'operation and maintenance manual' for the sustainable drainage scheme as constructed.

Details of appropriate operational, maintenance and access requirements for each sustainable drainage component are to be provided, with reference to published guidance, through an appropriate Operation and Maintenance Plan for the lifetime of the development as constructed. This shall include arrangements for adoption by an appropriate public body or statutory undertaker, and/or management and maintenance by a Management Company and any means of access for maintenance and easements, where applicable. Thereafter the drainage system shall be retained, managed and maintained in accordance with the approved details.

Reason To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of Paragraph 165 of the National Planning Policy Framework.

27. Notwithstanding condition 2 (Plans Compliance) no development shall take place until the submission of the following details to the local planning authority:
- A scheme to screen the river wall will be submitted to, and approved in writing by the Local Planning Authority.
 - A Plan to demonstrate that a permanent, unobstructed vehicular access to the River Brun via the existing ramp to the south of the downstream end of the culvert will be retained for the lifetime of the development

The submitted details should be approved in writing by the local planning authority and the development shall subsequently be carried out in accordance with the approved plans.

REASON The structural integrity of the wall is unknown and to avoid any increase in flood risk associated with works adjacent to, or reduced access to, the River Brun.