

**Application Recommended for APPROVAL**

**FUL/2020/0573**

Brunshaw Ward

Town and Country Planning Act 1990

Full Planning Permission

Proposed Development: Proposal to Install New Modular Extension with Armco barrier and Closed boarded timber fence with gate

Site Address: Tesco Express, Burnley, Lancashire, BB10 3JB

**Applicant Name:** Mr Andy Horwood – Tesco

**Agent Name:** Mr Daniel Botten – ROK Planning

Mr Matthew Roe – ROK Planning

The application is before the committee following receipt of objections.

**Background:**

This application relates to the Tesco Express sited on the southern side of Brunshaw Road. The property is sited on a corner plot of Brunshaw Road and Rimington Avenue.

The application property is detached and benefits from a parking around the north, east and west facing elevation. The property used to formerly be the Brunshaw Public House which was converted under permitted development rights in 2008 to a retail use. The principle of change of use was considered to be permitted development under The Town and Country Planning (General Permitted Development) Order 1995 and subsequent amended orders thereafter. Therefore, planning permission was not required for the change of use.



Google Aerial View



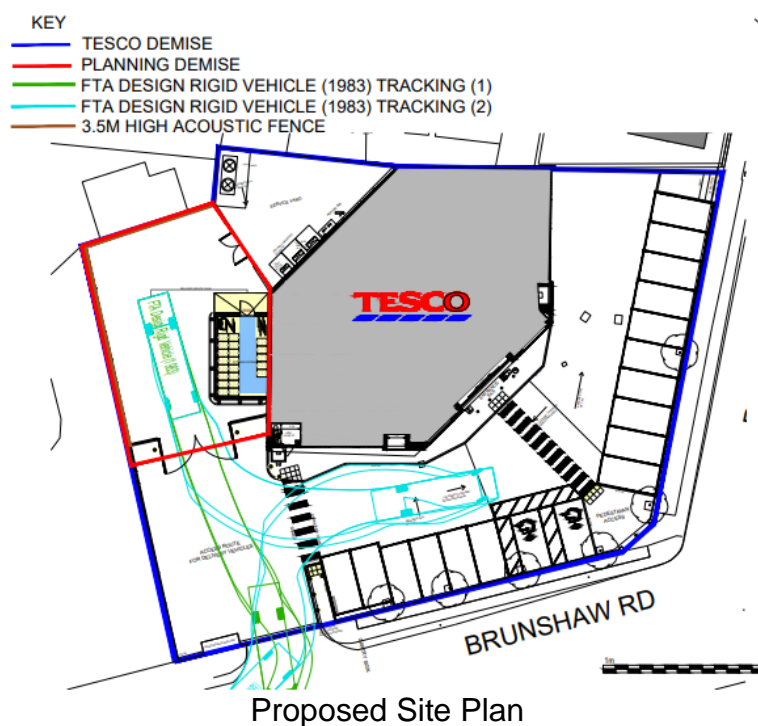
**Proposal:**

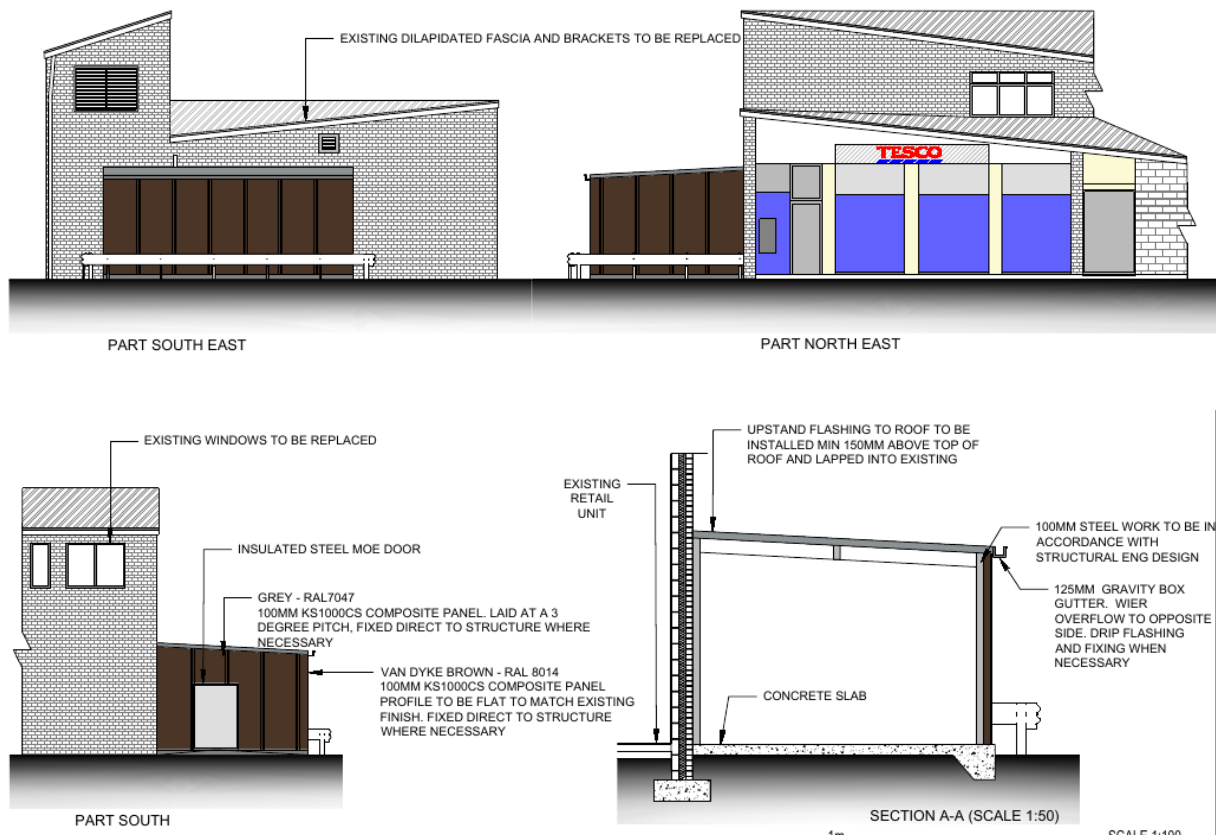
Planning permission is sought for the erection of a new modular extension with armco barrier and closed boarded timber fence with gate.

The modular extension will project 4.3m from the side elevation and have a length of 7.1m, creating a total floorspace area of 30.53m<sup>2</sup>. It will have a mono-pitched roof with an eaves height of 2.9m and a ridge height of 3.2m. It will consist of a steel portal frame clad in Van Dyke Brown – RAL 8014 100mm composite panels to be flat to match existing finish, with a grey RAL 7047 100mm composite panels to the roof, laid at a 3 degree pitch. It is proposed to install an insulated steel door to the rear south facing elevation.

The primary reason for the proposal is to increase storage space. The store as it currently operates is understocked due to a lack of storage combined with limited permitted delivery times (detailed in full in the following section). The extension will allow an increased level of stock to be stored on-site, allowing the store to operate within the limited delivery times.

2.4m close boarded fencing is proposed with a 2.4m high vertical bar gate to create a service area around the proposed building. It will be constructed from armco barrier closed boarded timber fencing. The introduction of the new gated fence will improve car-park and servicing safety whilst also providing additional security for the store.





## Relevant Policies:

### Burnley Local Plan (2018) Policies:

- SP1: Achieving Sustainable Development
- SP4: Development Strategy
- SP5: Development Quality and Sustainability
- EMP3: Supporting Employment Development
- NE5: Environmental Protection
- IC1: Sustainable Travel
- IC3: Car Parking Standards

### National Planning Policy Framework (NPPF)

## Site History:

APP/2008/0803 – Proposed external alterations to existing building including new shopfront, customer access and entrance, and amendments to car park and service yard - APPROVED

APP/2008/0808 – Proposed installation of an ATM machine – APPROVED

APP/2008/0834 – Proposed installation of air conditioning and condenser units - APPROVED

APP/2009/0594 – Display of various non-illuminated signage to boundaries of premises – APPROVED

APP/2009/0721 – Retrospective application for two replacement lighting columns and four new lighting columns – APPROVED

## Consultation Responses:

### Highways:

No objection in principle subject to matters being addressed. Lancashire County Council acting as the Local Highway Authority has no objection to the principle of the development proposal, however an issue has been identified that requires addressing.

Whilst I would raise no objection to the principle of the development proposal, I must be fully satisfied that the proposal would not be detrimental to highway users.

The proposed layout suggests that the HGV delivery vehicles cannot manoeuvre into position without impacting the proposed new fence and while the existing site layout provides sufficient area available to enable the safe manoeuvrability of HGV delivery vehicles, the applicant is required to demonstrate how the proposal can be accessed safely by the expected HGV delivery vehicles and therefore I ask that the applicant provides sufficient swept path analysis for the whole site in support of the proposal. I also ask that the fence and gate is included within the proposed elevations plan.

In accordance with the submitted plans and documentation; I ask that sufficient swept path analysis is provided and that the site plans are revised where applicable to support this.

*Subsequently, amended drawings and a plan showing the swept path analysis to address the abovementioned issues was submitted. Additional Highways comments were received on the 26<sup>th</sup> January, stating:*

No objection no conditions. Lancashire County Council acting as the Local Highway Authority does not raise an objection regarding the proposed development and are of the opinion that the proposed development will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site. The revised drawings and swept path analysis would satisfy the highway issues first raised and therefore the proposal would not raise any highway concerns.

### Environmental Health:

It is recommended that a noise assessment is carried out to establish 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 condition should be appended:

1. No development shall start until a noise assessment of the noise likely to affect the development has been submitted to and approved in writing by the Local Planning Authority. The assessment shall take into account the noise from surrounding road networks and any other noise sources which are deemed significant on the site. The assessment shall identify all noise attenuation measures which may be determined appropriate to reduce the impact of noise on the residential properties. Once approved in writing, all noise control measures shall be implemented and thereafter retained.

Reason: In the interests of the amenity of the future occupants of the development, in accordance with policy GP1 of the Burnley Local Plan, Second Review.

16. No development shall start until a scheme and programme for any the lighting of the extension has been submitted to, and approved in writing by, the Local Planning Authority. The scheme and programme shall include details of:

- a) Location, type and intensity of lights.
- b) Types of masking or baffle at head.
- c) Type, height and colour of lighting columns.
- d) Number and size of lighting units per column.
- e) Light spread diagrams showing lux levels at the site boundary and calculation of the impact of these on nearby properties.

The lighting shall only be provided in accordance with the approved scheme and programme.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and to conform with policy GP7 of the Burnley Local Plan, Second Review.

*Subsequently, a lighting scheme and a noise assessment has been submitted. The following comments have been received:*

I have reviewed the objection from the local resident, the attached original 2011 noise report issued by Sound Solution Consultants (SSC), and the more recent noise report prepared by KR Associates (KRA) ref: KR06811 dated 15.02.21. I have also reviewed the attached Abatement notice dated 12<sup>th</sup> April 2010 and note the withdrawal of that notice in August of 2010 conditional on deliveries to the Tesco's site in the daytime only.

The SSC report is based on a BS4142:1997 assessment that was appropriate for the date it was produced. The 1997 version of BS4142 had more limited scope than the newer 2014 version, but used broadly the same metric of assessment. Essentially the standard requires that noise under investigation is assessed and a specific noise level identified, this is then modified to reflect the perception of the noise for tonal, impulsive or other acoustic features to form a rating level, that is then compared against the background level without the source present. If the resulting assessment level is 10 dB or more higher, there is a likelihood of complaint, 5 dB would be of marginal significance -10dB would be a positive indication that complaints are not likely. The 2011 report noted details of deliveries, delivery times, and provided measured levels for the identified deliveries that were subsequently assessed using that standard. The results indicated a range of assessment levels from +13 dB to +18 dB that indicated a likelihood of complaint.

The KRA report correctly uses the updated version of BS4142:2014+A1(2019). The assessment method is broadly the same as the 1997 version save that the acoustic feature modification are now more detailed, and the 'compliance' metric now is that +5 dB and +10dB lead directly to adverse and significant adverse impacts as opposed to complaints.

Having reviewed the KRA report the approach and method appear acceptable. There are several anomalies that could be explained

1. The use of 15minute averages for daytime background residual noise is unusual and needs explaining. It also only provides data for a relatively small period of time, however, the approach used is likely to be a worst case for that measured day. Clarification of the background noise levels may be useful, however it is interesting to note that the KRA background level of 42 dB is the same as the one used in the SSC report 10 years earlier. There is some confusion in paragraph 5.2.3 about the relevance of the discussion in relation to background noise and traffic flow (as pre 7am and post 7pm data is not provided). If relevant this may need including however, I am satisfied that the level of 42 dB reflects a suitable background for the area based on review of data in both reports.
2. Significant time is devoted to clarification that deliveries to the former public house and deliveries to the Tesco store. It is accepted that deliveries occur for each, although there would be significantly more deliveries for a shop than for a public house.
3. The report notes that the extension to the shop storage facility is not significant in terms of intensification of use. it seems a little illogical to extend storage and not expect to have more throughput of goods i.e. more deliveries, that said, it is conceivable that additional storage to ensure continuity of service is required (particularly highlighted during COVID lockdowns). It is also noted that normally the activity of a store is limited by the square metres of shop space, which is not expected to change, clarification may be helpful.
4. The model outputs are based on the measurements carried out on site. deliveries were observed and measured levels taken, and then modelled to determine impact at the nearest receptors. The model outputs show predicted levels at receptor ground floor of 48 dB. It should be noted that levels may be higher at 1<sup>st</sup> floor where such rooms are still occupied during the day as living rooms. The resulting BS4142 assessment has indicated an assessment level of +9 dB. This is an adverse impact as noted in the report but, when expanded to include uncertainty, the range of potential impact levels is +6 dB - + 12 dB, minimum adverse impact, maximum significant adverse impact. The result is therefore in line with the some of data supplied by SSC where worst case data was presented.
5. Table 6.2.1 indicates the use of a +3 dB character correction. This does not align with the observations of residents comments about clearly audible crashes and bangs, reversing alarms etc. the character correction is more likely to higher than the predicted +3 dB. Any increase in the correction clearly increases the potential BSD4142 output above the +10 dB threshold to significant adverse impact.
6. The estimation of uncertainty is robust and an example of good practice but has not been used in the quantification of the final assessment level to quote a range of results, which is the logical conclusion of carrying out the uncertainty calculation. (see 4 above).
7. The use of an assessment averaged over 15minutes may overestimate the impact as the standard advises that daytime operation is normally averaged over an hour.

The report recommends that in context the good neighbour policy, hours of delivery restrictions make the noise from the site acceptable in planning terms.



Given the comments above I would note that the aim of planning policy is to *“mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life”*; a result of +9 dB is not showing an ability to reduce to a minimum and that more can be done, clearly a suitably sized acoustic barrier (3 – 3.5m?) could be erected and this would provide additional comfort and reduce noise emissions from the site and may help address local concerns over noise and disturbance. I would therefore advise as follows:

Any planning consent granted in respect of the modular extension Tesco express should be subject to two noise conditions as noted below:

- (1) No development shall start until a scheme for the erection of a suitably specified noise barrier has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the building is brought into use and thereafter retained at all times.

Reason: In the interests of the amenities of the neighbouring occupiers, in accordance with policy GP1 of the Burnley Local Plan, Second Review.

- (2) The use hereby approved shall not operate outside the hours of 07.00hrs and 17.00hrs Monday to Saturday. There shall be no deliveries on Sundays or Bank Holidays

Reason: To protect the amenities of nearby residents, in accordance with policy SP5 of the Burnley Local Plan, Second Review. to the site shall be restricted

*Following the submission of an amended noise assessment and details of an attenuation fence were submitted on the 7<sup>th</sup> April 2021. These were subsequently assessed by the officer and the following comments were made:*

The results of the modelling (page 9 of the KRA acoustic report v.1.3) show a 3-4 dB reduction in transmitted sound due to inclusion of a 3.5m acoustic fence. The calculated level is now well below WHO guidelines for day time noise, and is demonstrably better than existing. The robust acoustic barrier, as opposed to the existing fencing will likely produce a significant perceived change in observed sounds at sensitive receptor locations.

There is likely to be a slight improvement in perception of event noise (LAMax).

The revised clearly demonstrates that the proposal can be acceptable in acoustic terms. KRA recommend 2 conditions:

“It would be recommended that to comply with policy NE5 of the Burnley Borough Council Local Plan:

Delivery: 09:00 to 17:00 Monday to Saturday only.

Mitigation: 3.5m high acoustic fence around loading area.”

On that basis I would advise that the development is acceptable in acoustic terms subject to the inclusion of the following conditions:

1. The use hereby approved shall not operate outside the hours of 09.00hrs and 17.00hrs Monday to Saturday and at no time on Sundays  
Reason: To protect the amenities of nearby residents
2. The use hereby approved shall not operate until the acoustic fence has been located and constructed as specified in the KRA report reference KR06811 version 1.3 – 7th April 2021.  
Reason: To protect the amenities of nearby residents

**Publicity:**

4 letters of representation were received following the initial consultation objecting to the proposal of the following grounds:

- Adverse impact on neighbouring residents
- Reduction in the vehicular access will have adverse highways impacts
- Exacerbate parking issues
- Exacerbate existing delivery issues
- The reduced space within the site will impact deliveries made by HGV's which will further impact highway safety of its users around the site.
- Increase noise and light pollution which emits from the site
- Intensify noise issues
- The Council served a Statutory Nuisance Abatement notice on Tesco previously due to noise associated with deliveries; the notice was later withdrawn. However extreme noise levels still continue to this date.
- Tesco themselves classed the site as noise sensitive and introduced a protocol for deliveries, however, many of these instructions are breached on a daily basis
- Delivery drivers are reversing onto the site from the main road causing long tailbacks, the reduced area to the side of the store will worsen this
- The reduced space will restrict manoeuvrability of delivery vehicles which in turn could lead to greater noise nuisance from the reversing beepers
- The extension will bring development closer to adjacent residential properties which will increase noise and disturbance from fumes
- No sound insulation is proposed to the extension
- Lack of noise assessment
- Loss of parking within the site

Upon receipt of the noise assessment and lighting scheme submitted in support of this application a re-consultation period was carried out. 1 letter of further objection was received from one of the previous objectors who has made representation commenting on the additional information. They wished to maintain their objection but also had the following comments to make:

- The ROK planning justification letter dated 19<sup>th</sup> February 2021 states 8 bullet points about Tesco being a good neighbour, this is factually incorrect. The majority of bullet points they do not comply with
- Deliveries do take place outside of 09:00 to 17:00 on regular occasions
- Deliveries have been known to take place on a Sunday
- The ATM is used outside of the store hours and not as the statement suggests
- External lighting is not screened from the highway



- The car park lighting is on 365 days of the year and not switched off as suggested between 23:00 and 07:00
- Staff regularly use the side door after 6pm
- There are a number of inaccuracies contained within the noise assessment these are:
  - When the building was a public house, deliveries were made at the rear of the building and not as stated and indicated on the google maps on page 3 of the report. This area at the rear has since been re developed into residential use now known as Thieveley View.
  - The deliveries would be a lot further away from mine and my neighbour's property. In addition, the deliveries were much less frequent (2-3 deliveries per week) unlike Tesco's deliveries which have several deliveries per day. The deliveries are not just from Tesco's lorries but from lorries delivering milk, bread etc
  - The aerial photo on page 7 is factually incorrect. The lorry shown on the photo was not delivering to the public house it was in fact parked on the car park for several months with consent from the landlord. If it was delivering to the pub it would be parked a lot nearer to the pub.
- Noise levels from deliveries to Tesco's has been greatly increased from when the building was a public house due to increased frequency of deliveries and that the deliveries wagons are now much nearer to my property.
- The background noise measured in the report has been published between the hours of 5:00 and 11:00 and between 16:00 and 22:00 (a total of 12 hours) but strangely no recordings between 11:00 and 16:00. The background noise levels between 11:00 and 16:00 will no doubt be quite low. This is the time when normally in the summer months we would spend time in the garden. However, when deliveries are made in the afternoon with the background noise low the noise from delivery wagons is unbearable and we cannot sit outside.
- The report says the background noise was measured over a 15-hour period but the findings published only total 12 hours
- Graph 5.2.2 on page 11 indicates noise levels taken over a 15-hour period overnight between 18:00 hours on 10th February 2021 until 11:00am on the 11th February 2021.
- Why were noise levels taken through the night when there were no deliveries and not during the day when deliveries occur?
- Based on the above it is evident that the information submitted by KR associates (UK) Ltd is factually incorrect, contains a very vague and unclear graph and appears not to have recorded the noise during the daytime and therefore cannot be relied on.

*The re-consultation period carried out following receipt of the amended noise assessment and fence details is not due to expire until the 26<sup>th</sup> April 2021.*

## **Planning and Environmental Considerations:**

The main considerations which relate to this application are:

- Principle of the Development;
- Visual Amenity / Design;
- Residential Amenity; and
- Highways / Parking

### **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.

Policy SP4 of the Local Plan seeks to focus development within the urban areas of Burnley and Padiham. The application site is located within the development boundary for the urban area of the Burnley, as defined in Burnley's Local Plan. It would, therefore, be considered to accord with Policy SP4 of the Local Plan.

Policy EMP3 of the Local Plan relates to supporting employment development. For new and improved sites and premises any expansion, upgrading or establishment of a new business premises within the Development Boundaries will be supported where they comply with other relevant policies in the Plan and where:

- a) They do not by reason of the nature of their operation or vehicle access arrangements, have an unacceptably negative impact on surrounding uses, residential amenity or the environment; and
- b) They do not (either individually or cumulatively) through their form and design have an unacceptable impact on the landscape or townscape.

It is considered that the proposed development meets the requirements of Policy EMP3 as the proposed development will help support an existing business, an in-depth consideration of the aforesaid issues will be addressed later in this report.

Therefore, the principle of the development is accepted, in accordance with the NPPF's presumption in favour of sustainable development and Policy SP1 of the Burnley Local Plan which reiterates this stance, which should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of a proposal are identified; subject to assessment of the following matters:

### **Visual Amenity / Design:**

Local Plan policy SP5 sets out requirements for the design quality of all types of development. Any new development should be of a good standard of design, demonstrating an understanding of the wider context and make a positive contribution to the local area.

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.

The proposed extension would be screened from public view by the proposed fence / gate, the existing boundary treatment and the store building. Further to this, the extension is single storey so would be considered commensurate in nature to the host building. Taking this into consideration it would not be considered a prominent addition.

The proposed fence / gate will be constructed from armco barrier closed boarded timber fencing. It is considered that the proposed installation of the fencing with a maximum height of 2.4m would be considered a prominent addition however it would not adversely impact the character and appearance of the host building to an extent significant enough to cause significant harm. The fencing and gate would reflect development typically found at establishments of this type to create service yards.

It is, therefore, considered that the proposed development will have a negligible impact upon the character and appearance of the host building, application site or the surrounding area and accords with SP5 of the Local Plan and the NPPF.

### **Residential Amenity:**

It is important to consider the potential impact the proposed development would have on the residential amenity of the occupiers of nearby dwellings. Policy SP5 seeks to ensure that development does not result in an unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reasoning of overlooking, lack of privacy or reduction of outlook or daylight.

The planning restrictions are attached to the various applications for the works to convert the site. These are detailed in turn below.

1. **LPA ref: APP/2008/0803** - Proposed external alterations to existing building including new shopfront, customer access and entrance, and amendments to car park and service yard. Approved 24th February 2009. There are no restrictive conditions attached to the planning permission (LPA ref. APP/2008/0803). However, the associated Section 106 agreement restricts deliveries to between 07.00 and 22.00.

2. **LPA ref: APP/2008/0808** - Proposed installation of an ATM machine. Approved 9th January 2009. Condition 3 attached to the permission (LPA ref. APP/2008/0808) requires that the ATM only be available during the hours when the store is open, and closed when the store is closed.

3. **LPA ref: APP/2009/0547** - Proposed 3 internally illuminated fascia signs and 1 internally illuminated projecting sign. Approved 16th October 2009. Condition 7 (LPA

ref. APP/2009/0547) states that “Any external source of lighting shall be effectively screened from the view of drivers on the adjoining public highway”.

4. **LPA ref. APP/2009/0721** - Retrospective application for two replacement lighting columns and four new lighting columns. Approved 15th February 2010.

Condition 1 (LPA ref. APP/2009/0721) requires the lighting to be switched off between 2300 and 0700. Condition 2 requires the lighting to not have a greater illuminance level than 16 lux and the lights must be at all times positioned, directed and angled downwards, to avoid glare and dazzle to both neighbouring residents and the public highway.

In summary, the following various restrictions are attached to the unit:

- Deliveries must only take place between 07.00 and 22.00;
- The plant and AC units must at all time meet the noise level restrictions set out in the noise report;
- The ATM must only be available during store opening hours;
- All external lighting must be effectively screened from the highway;
- External car-park lighting must be switched off between 23.00 and 07.00; and
- External car-park lighting must not have a luminance greater than 16 lux and must be positioned/angled downwards.

The planning statement confirms that the aforesaid existing planning restrictions are currently being complied with

Following the opening of the store in 2012, Tesco received a number of complaints from a directly adjacent resident despite complying with the above planning restrictions. The timeline of events is understood to have taken place as follows, all within 6 months of store opening:

- An adjacent resident complained via legal route with Burnley Council that further noise restrictions were required. A series of noise readings were taken at the store and from the affected property. Burnley Council concluded that no further action was required.
- A further independent noise assessment was conducted on behalf of the adjacent resident which was presented to Burnley Council and to Tesco Trading Law. The Council concluded that no further action was required. Tesco Trading Law came to the same conclusion.

However, as a good neighbour gesture and in correspondence with the affected neighbours, Tesco installed the following additional restrictions to their operation:

1. A voluntary delivery restriction from 9am to 5pm;
2. No deliveries at all into the store on a Sunday;
3. Delivery consolidation scheme to allow fresh and ambient deliveries to arrive on the same vehicle, reducing deliveries to the store; and
4. Restricting staff use of the side door after 6pm.

These restrictions are notably more stringent than the restrictions within which Tesco could legally operate in planning terms. Therefore, should be considered as a material consideration.

A number of the objections received relate to Tesco's not complying with the abovementioned restrictions. The Council only have authority to enforce the conditions which were attached to previous applications and not the latter agreement Tesco entered into with residents. It is considered that the proposed development would not impact or affect the business complying with any of the aforesaid conditions.

Policy NE5 of the Local Plan point 6) states that 'developments generating noise which is likely to create significant adverse impacts on health and quality of life and cannot be mitigated and controlled through the use of conditions or through pre-existing effective legislative regimes, will not be permitted'.

A noise assessment has been submitted in support of the application which concludes that to ensure the proposed development does not lead to adverse noise impacts on local residents that local deliveries to the site are only undertaken between the following hours: - Standard Fence: 09:00 to 17:00 Monday to Saturday only. The above aligns with the existing "Good Neighbour Agreement" with the residents which restricts the current delivery hours to the same time periods.

The report further concludes that under normal conditions Brunshaw Road is a busy road in the early morning as it is the main road into Burnley from Worsthorne and Merclough and villages further to the east of Burnley. The normal background noise climate is dominated by traffic noise of people going to and returning from work. In determining the context of the site consideration has been given to the sustained deliveries to the site for over the last 20-years which in planning terms have been lawful. Furthermore, it is understood that an investigation by the Local Authority and the client has previously found that the deliveries do not constitute a Statutory Noise Nuisance.

The noise assessment was undertaken to assess the existing delivery times of 9am-5pm, and evidence that the extension will cause no change to the existing situation (which is considered acceptable). Indeed, given the conclusions of the noise assessment, it is likely that deliveries outside of these times would additionally be acceptable in planning terms.

It is considered that the proposed development would have no greater an impact on neighbouring residents than the existing relationship the retail store currently has. It would not result in an increase in deliveries, but rather create a dedicated service yard creating a safer environment for staff and customers during delivery times.

It should also be noted that, with regards to lighting, the above restrictions will be followed and any lighting will be screened by the proposed gated fence and switched off between 11pm and 7am. On this basis the proposal is not considered to have any negative amenity impact.

The submitted Noise Assessment has been assessed by the Council's Environmental Health Officer who has concluded that given the aim of planning policy is to "The results of the modelling (page 9 of the KRA acoustic report v.1.3) show a 3-4 dB reduction in transmitted sound due to inclusion of a 3.5m acoustic fence. The calculated level is now well below WHO guidelines for day time noise, and is demonstrably better than existing. The robust acoustic barrier, as opposed to the existing fencing will likely produce a significant perceived change in observed sounds at sensitive receptor locations.

There is likely to be a slight improvement in perception of event noise (LAMax).

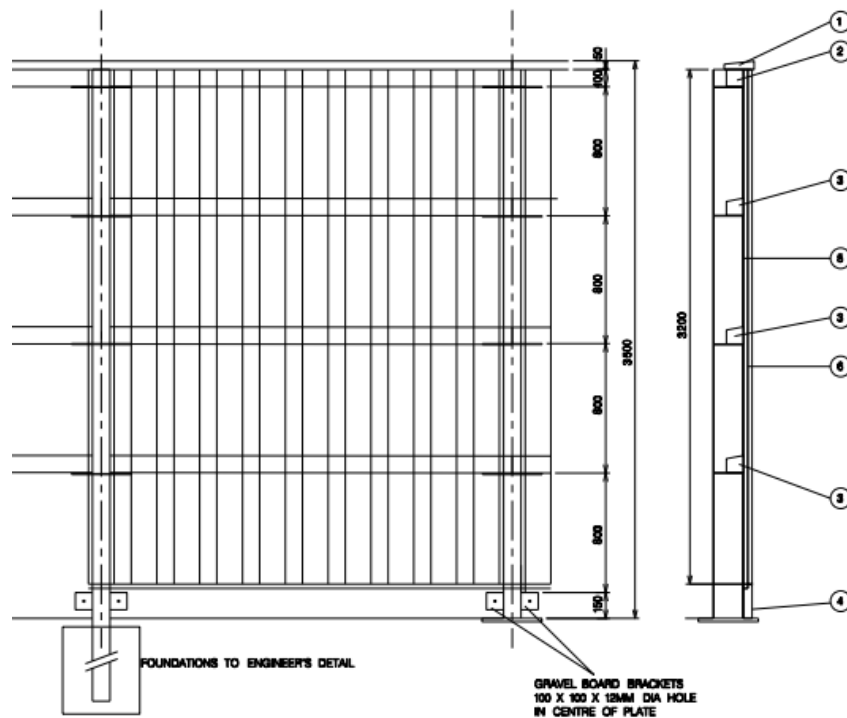
The revised clearly demonstrates that the proposal can be acceptable in acoustic terms. KRA recommend 2 conditions:

“It would be recommended that to comply with policy NE5 of the Burnley Borough Council Local Plan:  
Delivery: 09:00 to 17:00 Monday to Saturday only.  
Mitigation: 3.5m high acoustic fence around loading area.”

On that basis I would advise that the development is acceptable in acoustic terms subject to the inclusion of two conditions.

The Environmental Health Officer also requested a condition restricting hours of delivery to 07:00 and 17:00 Monday to Saturday. As stated above planning application APP/2008/0803 already restricts deliveries to between 07.00 and 22.00. Therefore, a further condition is not considered necessary.

The east facing side gable of the Tesco store currently has an off-set distance of circa 18m from the side gable of No. 459 Brunshaw Road. The proposed development would reduce this to circa 14m. Set behind No. 459 is a further property known as No. 457 Brunshaw Road. A 3.5m acoustic attenuation fence is proposed down the eastern elevation of the site between the application building and the aforementioned dwellings. A condition will be attached ensuring that this is erected prior to commencement of the proposed building for deliveries.



Taking into consideration, the separation distance proposed and the erection of an acoustic barrier along the eastern boundary it is considered that the proposed

development would be adequately sited and noise mitigation measures imposed to ensure no adverse amenity impact upon the occupiers of the aforementioned dwellings.

It is considered that the proposed development would not result in the creation of additional noise disturbances than residents are currently experiencing during the operational hours of the store nor will it result in adverse amenity impacts. The proposed extension will have no greater an impact upon amenity than the existing store does now, as no changes will occur to the operational standards of the store. The proposed development, therefore, accords with SP5 of the Local Plan.

**Highways / Parking:**

Policy IC1 seeks to ensure sustainable travel, highway safety and a safe and convenient means of access for all users. Policy IC3 requires the adequate provision of car parking for developments in accordance with specific parking standards set out in Appendix 9. In applying the parking standards Appendix 9 allows for local circumstances to be taken into account which includes the accessibility of the site by public transport, walking and cycling; the availability of existing public parking provision or on-street parking nearby; and whether any under-provision might cause or exacerbate congestion, highway safety issues or on-street parking problems.

Delivery vehicles will be able to enter and exit the site in a forward gear and ample space for delivery vehicle parking will be retained directly adjacent to the proposed extension. As demonstrated by the vehicle tracking shown on the Proposed Site Layout (Drawing no. C07) submitted with the application, servicing access and parking is sufficient.

The County Highways Officer has assessed the information submitted in support of the application and has confirmed that they offer no objection in regards to highway safety.

It is considered that there is ample parking within the site to accommodate customers visiting the site without adversely affecting on-street parking within the immediate area or highway safety issues.

The development is, therefore, considered to accord with Policies IC1 and IC3 of the Local Plan.

**Conclusion:**

Accordingly, the proposed development is considered to comply with the requirements of the Local Plan and the NPPF.

**Recommendation:**

That the application is **APPROVED** subject to the following conditions:

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

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



2. The materials to be used on the external surfaces of the proposed development as indicated within the application form and on drawing labelled 'Proposed Building Elevation – Job No: 6476 – Drg No: C05 – Revision: #' shall be implemented as indicated unless otherwise agreed in writing by the Local Planning Authority.

REASON: In order that the Local Planning Authority may ensure that the materials to be used are appropriate to the locality in accordance with Policy SP5 of the Local Plan and the NPPF

3. Prior to commencement of the proposed extension the 3.5m high acoustic fence to the eastern boundary shall first be erected and retained thereafter.

REASON: In the interest of residential amenity.

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

REASON: To clarify the terms of this consent

RH  
Planning and Compliance Officer