

Application Recommended for Approval
Rosehill with Burnley Wood Ward

COU/2021/0277

Full Planning Application
The Town and Country Planning Act 1990

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

Applicant Details: Mr Nik Putman – Maple Grove Developments

Site Address: Reel Cinema, Manchester Road, Burnley, Lancashire, BB11 2EG

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

Background:

This application site is located outside of the Town Centre Boundary as defined by the adopted Local Plan. It comprises a large parcel of land sited to the south of the A682, Manchester Road. It currently comprises of a large rectangular shaped building occupied by Reel Cinema, a drive thru Burger King and a public house, The Star.

The majority of the site is relatively flat though there is a lower car park to the north adjacent to Healey Wood Road and the site egress slopes down to this same road. Mature trees line the egress road and the site's southern boundary.

Access is gained via a dedicated left hand turn from Manchester Road with all vehicles exiting onto Healey Wood Road. There is a separate pedestrian access via Manchester Road. The car parking present within the site is utilised by all uses.

The application site is surrounded by a number of mixed uses, industrial uses bound the site to the east and residential properties to the south. The application site is separated from the residential uses by the railway line which runs along the southern edge of the site.







Proposed Development:

Planning consent is sought for the partial demolition of the existing cinema building and external alterations to form a food store (Class E) and associated servicing landscaping and re modelling of car park with access and egress from Manchester Road.

The partial demolition would see an overall reduction in floor space by 671m². The proposed food store will comprise of a total of 2,034m² GIA with a retail sales area of 1,315m².

The proposed main entrance to the store will be located on the north elevation of the building, the west elevation will comprise of extensive glazing ensuring an active frontage is

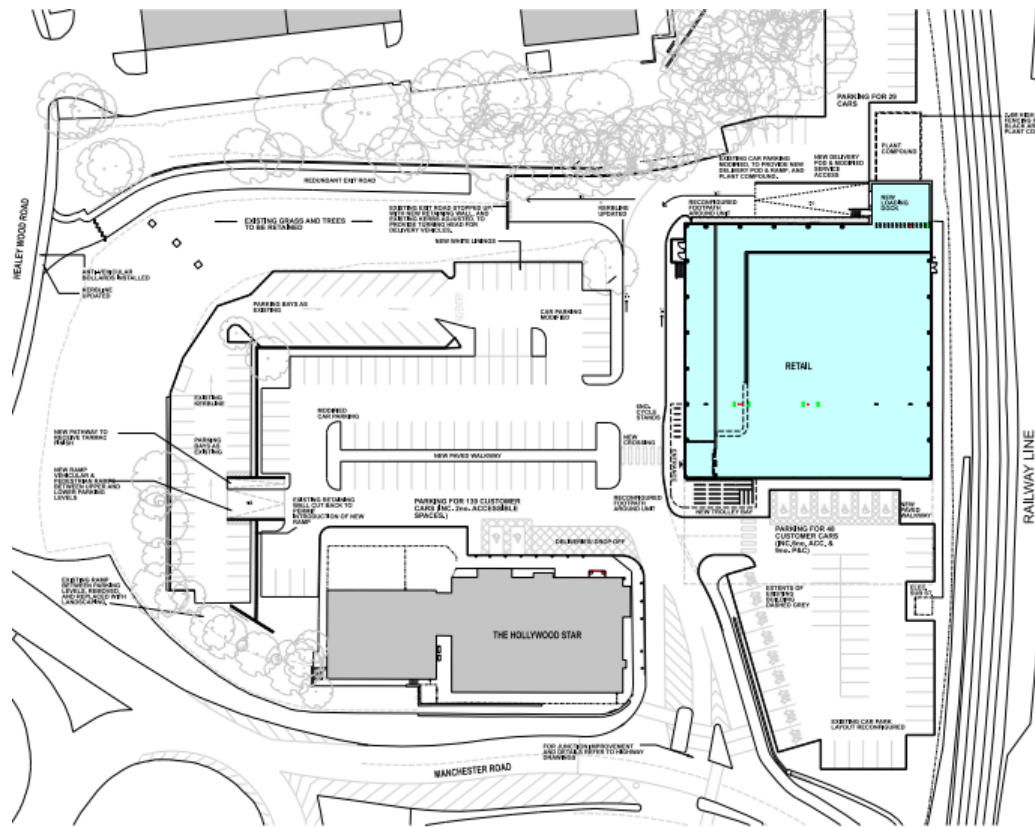
maintained which faces onto Manchester Road. A contemporary canopy is proposed which will extend over the main entrance and trolley park.

Proposed roof works are proposed to accommodate the reduction in the size of the building. A series of pitches would be screened with a parapet. Proposed materials comprise a grey rendered plinth, white composite panels laid horizontally and aluminium frames in Gentian Blue.

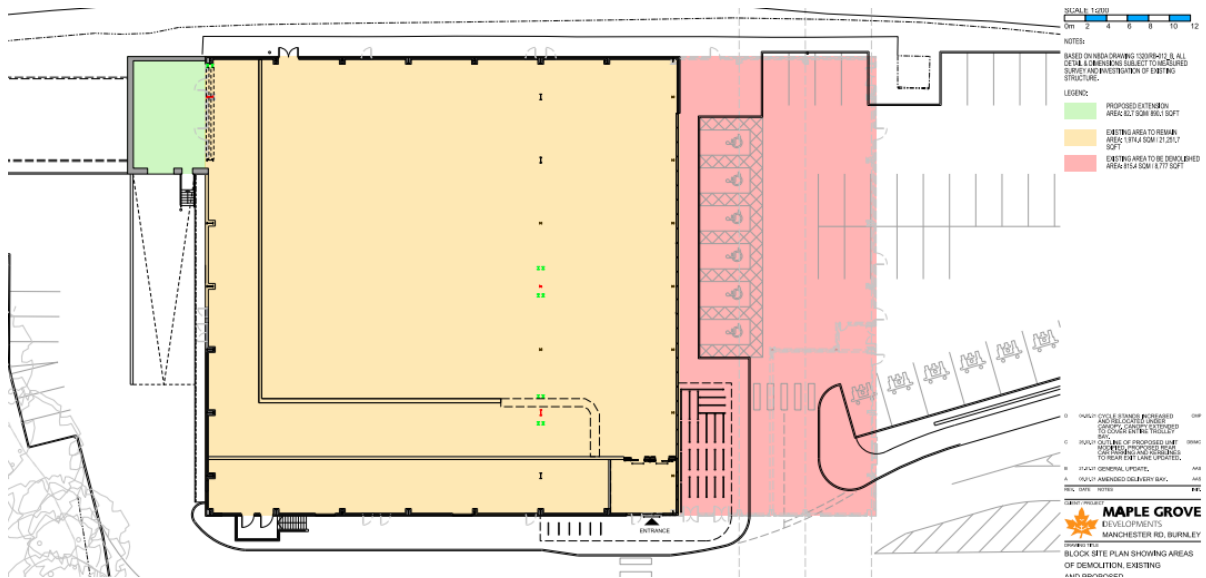
The servicing area and external plant are located on the east elevation. To accommodate the proposed HGV movements, enabling a HGV to manoeuvre safely within the site, changes are proposed to the servicing area. These comprise the closure of Healey Wood Road to vehicles and a slight increase in levels within the vicinity of the loading bay to reduce the existing incline. HGV vehicles would reverse up to the level loading service dock, unload and leave the site in forward gear via Manchester Road.

The existing car park will serve continue to serve the public house as well as the proposed food store. This will reflect a similar relationship which occurs at present between the cinema, burger king and public house. A total of 316 car parking spaces are proposed including 8 accessible spaces and 9 parent and child spaces. Works are proposed within the car park to remodel the existing layout, including a ramp to the lower level car park.

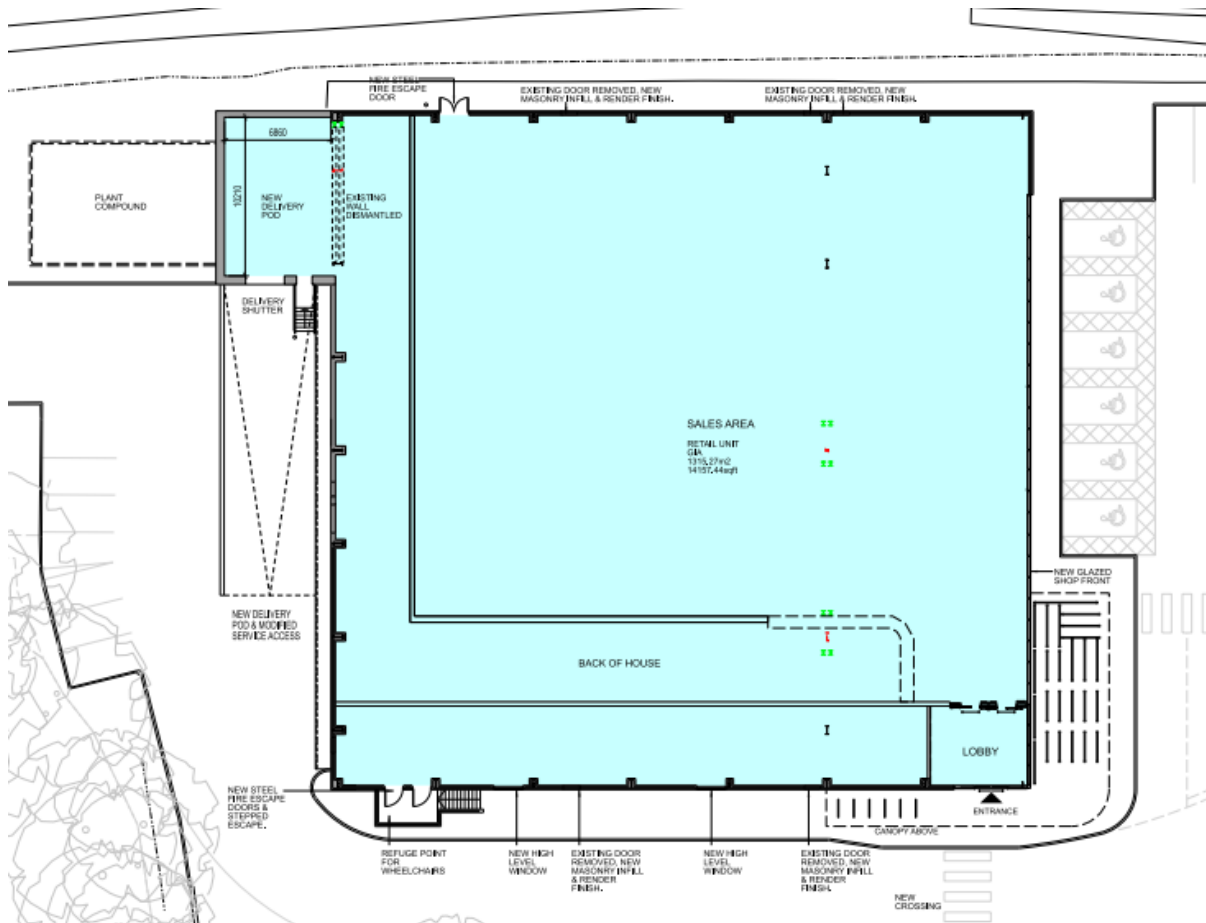
Access and egress are proposed from Manchester Road through the widening of the existing access. The proposals comprise a dedicated right-hand turn lane from Manchester Road, as well as a dedicated left-hand turn lane into the site. On exit, vehicles are able to turn left and right onto Manchester Road. The remodelled access will also allow for the creation of a pedestrian footway either side of it with two pedestrian refuges at the site entrance to aid crossing.



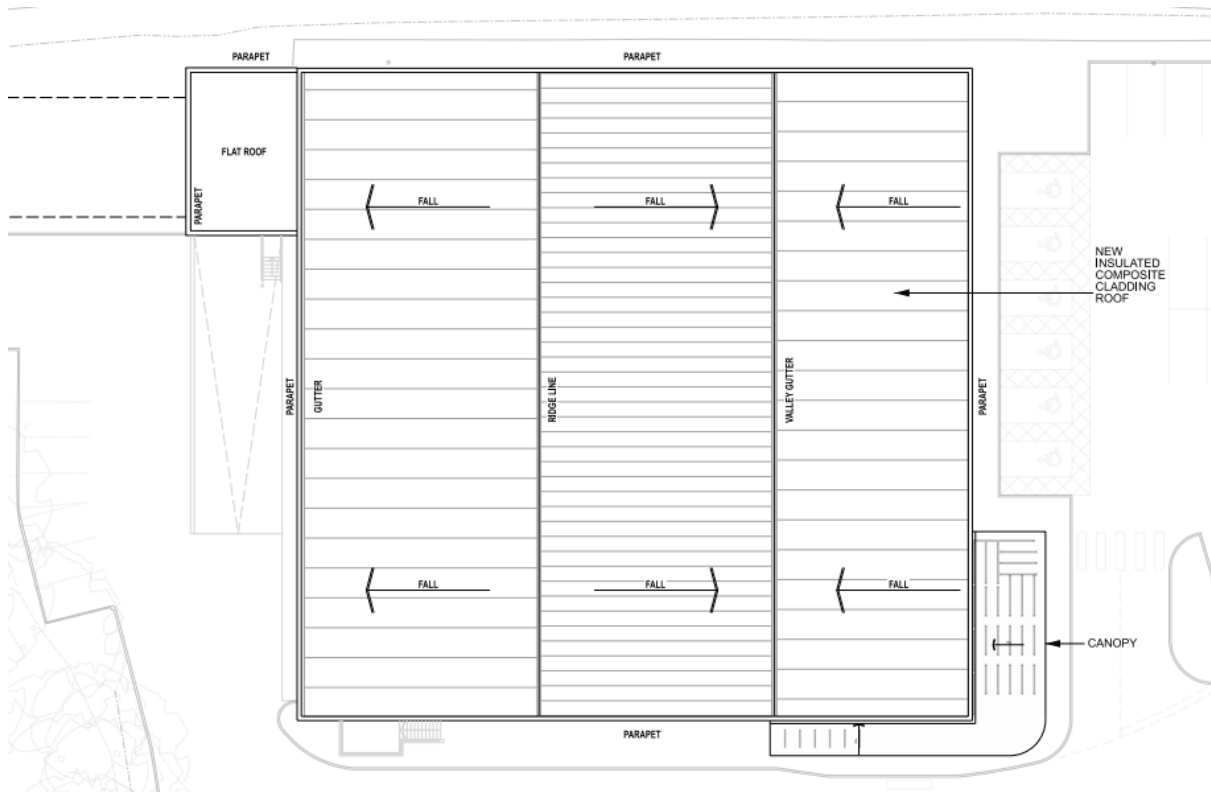
Proposed Site Plan



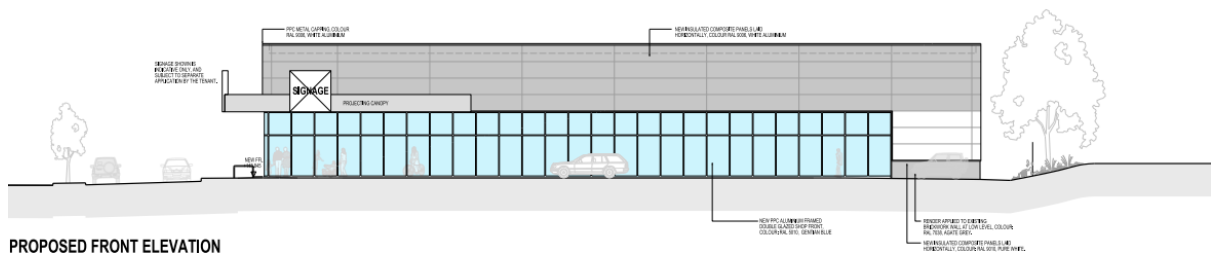
Proposed Block Plan showing extent of demolition and extension



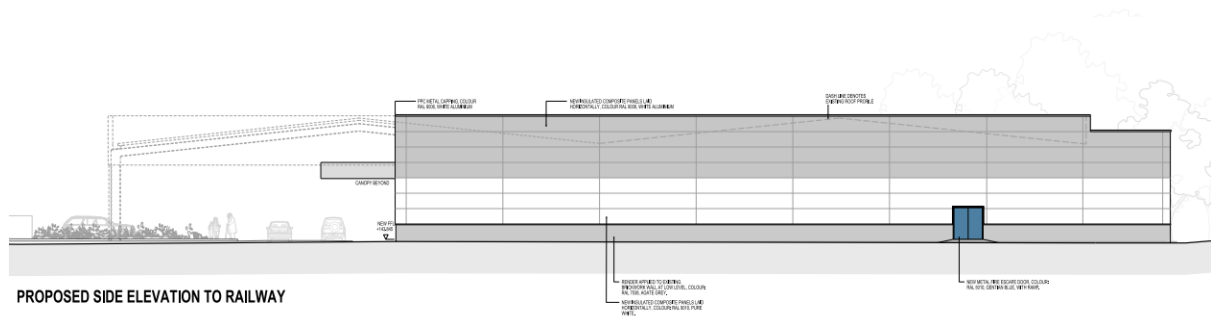
Proposed Ground Floor Layout



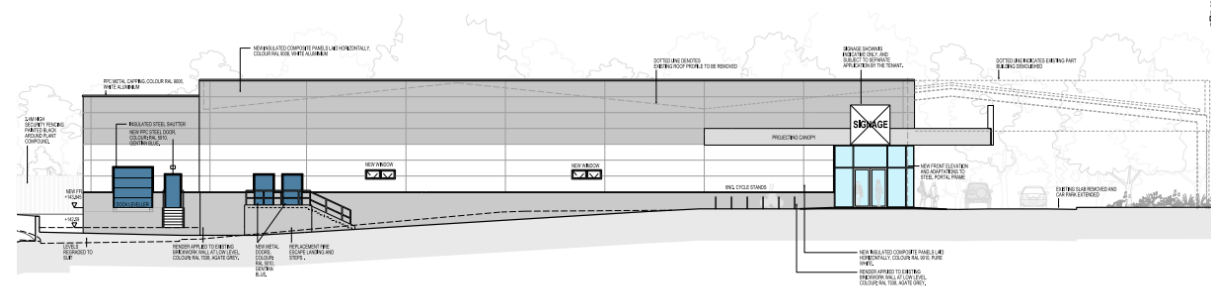
Proposed Roof Layout



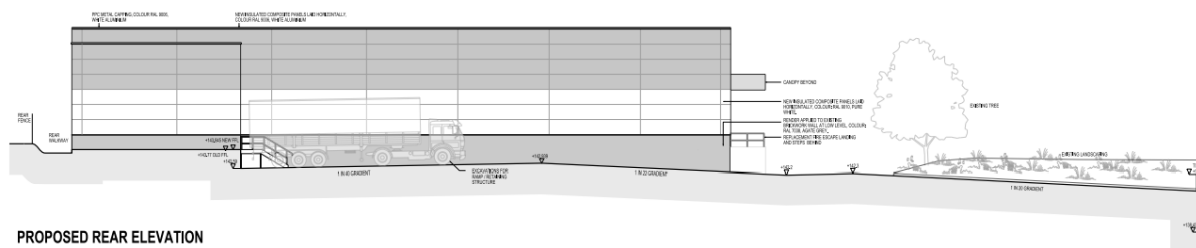
PROPOSED FRONT ELEVATION



PROPOSED SIDE ELEVATION TO RAILWAY



PROPOSED SIDE ELEVATION TO PUBLIC HOUSE



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
- 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 2021 (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;
3. Plan-making
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)
Air Quality Management SPD

Site History:

APP/2012/0019 – Proposed to extend and remodel the Apollo Cinema to provide a new A3 restaurant and associated car parking – APPROVED.

APP/2015/0590 – Change of use of part of cinema to form drive through restaurant (A3/A5) and alterations to external car parking area – APPROVED.

Summary of Consultation Responses:

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| Highways: | <p>Executive Summary and Recommendation</p> <p>There were several concerns with the analysis, safety and designs previously presented, as a consequence the level of impact and suitability of that proposed was unknown (at that time).</p> <p>I can now confirm that the new proposed all movement signalised junction and other changes to the highway network have been positively concluded. In addition, internal layout issues have been resolved, however a number need to be controlled by suitably worded planning conditions.</p> <p>Lancashire County Council as highway authority is satisfied that the development can integrate into the environment and impacts be managed within and in the surrounding network.</p> <p>There have been several revisions to the initial junction layout, which have made it acceptable. Additional modelling has been undertaken to ensure that the new junction will not have 'an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'.</p> <p>With respect to this application we would not wish to raise any objections to the application proposed.</p> |
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| LLFA: | <p>The Lead Local Flood Authority has no objection to the proposed development subject to the inclusion of conditions, in consultation with the Lead Local Flood Authority:</p> <p>Condition 1 – Development is in accordance with the submitted Flood Risk Assessment and Drainage Strategy</p> <p>Condition 2 - Operation and Maintenance Plan & Verification Report of Constructed Sustainable Drainage System</p> <p>Advice - Permeable Paving It is stated within the submitted FRA that permeable paving is proposed for the new parking areas, therefore the following advice is issued:</p> <p>Removal of Permitted Development Rights</p> |
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| | Where permeable paving is included in the hydrological calculations of a development proposal the local planning authority is advised to consider the removal of permitted development rights for permeable paving. |
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| Network Rail: | With reference to the protection of the railway, Network Rail has no objection in principle to the proposal, but recommend a number requirements which must be met as the proposal includes works within 10m of the railway boundary and an interface with the railway boundary - therefore undertaking the with the agreement and supervision of Network Rail is required. This is to ensure that the works on site, and as a permanent arrangement, do not impact upon the safe operation and integrity of the existing operational railway and for the avoidance of doubt of both the council and the developer who may not be aware of the potential for outside party proposals to impact upon the railway. |
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| Lancashire Fire and Rescue Service: | <p>The proposed planning application has been noted and the Fire Authority gives its advice in respect of access for fire appliances and water supplied for firefighting purposes to the site.</p> <p>A number of recommendations have been proposed to make the applicant aware of conditions which will have to be satisfied on a subsequent Building Regulation application. The conditions may affect the elevation of the building and access to them. These recommendations must be included if this application passes to another party.</p> |
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| Lancashire Police: | To reduce the risk of crime, burglary and criminal damage in the vicinity and, we would encourage the Developer to incorporate Secured by Design security measures. |
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| Environmental Heath: | <p>I would like to make the following observations that will require attention due to the age of the development, unknown history for the development and proximity to residential properties in the area.</p> <p>Conditions relating to the following:</p> <ol style="list-style-type: none"> 1. Landfill Gas migration 2. Noise Assessment for occupiers 3. Noise Assessment for noise sensitive nearby properties 4. Noise report for plant and machinery 5. External lighting details 6. Refuse storage details 7. Construction noise/nuisance |
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| Public Consultation: | The application was advertised with a press notice, site notices and letters to surrounding properties. |
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| | <p>One letter of representation has been received objecting to the proposal for the following reasons:</p> <ul style="list-style-type: none"> • Tesco and other supermarkets in Burnley contribute significant footfall to town centre retailing. When the impact on these stores is properly taken into account in the context of there being a full retail impact assessment and proper regard is had to the current health of the centre, with its substantial increase in vacancies, there is likely to be a significant adverse impact on vitality and viability contrary to relevant provisions in Local Plan Policy TC2. • The proposed development is located in an out of centre location and the search for sequential test opportunities needs to be cast wider. The assessment of sites falls 7 short of the necessary rigour in testing for their suitability and availability. The proposal is therefore contrary to the relevant provisions in Local Plan Policy TC2. • The proposal's business model requires shoppers to complete their purchases of necessary items elsewhere, causing extra trips, additional car mileage and travel rendering the development unsustainable and thus contrary to Local Plan Policy SP1. |
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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;
- Air Quality;
- Contaminated Land; and
- Coal Mining Risk

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 8 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.

Policy SP4 provides the development strategy for the borough and supports the re-use of existing buildings within the development boundary provided they are compatible with other relevant policies of the Local Plan.

The application site is located within the development boundary for the urban area of Burnley, as defined in Burnley's Local Plan. It is within an existing residential / commercial area and is within a short walking distance of a number of local facilities including shops, bus services and schools as well as the town centre. As Such, Officers consider that the proposed development is, on balance, in accordance with Policy SP4, providing a development within a highly sustainable location, which makes an appropriate use of an existing building.

National and local planning policy adopts a 'town centre first' approach to retail development. The application site occupies an edge-of-centre location. Paragraph 5.3.22 of the Burnley Local Plan states that the NPPF states that when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq.m).

Paragraph 5.3.24 sets in the individual threshold for retail development as 1,000m² in Burnley. This is further reiterated in Policy TC2:

Policy TC2: Development within Burnley and Padiham Town Centres

1) The Council will seek to maintain and enhance the retail and service function of Burnley and Padiham Town Centres, the boundaries of which are defined on the Policies Map. Main Town Centre Uses which accord with other relevant policies elsewhere in the Plan will be supported in the following locations:

- a) Proposals for retail development (A1 Use Class) will be supported within the Primary Shopping Area for Burnley or within the Town Centre of Padiham.
- b) Proposals for comparison retailing (A1 Use Class) should normally be located within the Primary Shopping Area of Burnley or within the Town Centre of Padiham.
- c) Proposals for convenience retailing (A1 Use Class) will be supported within the Town Centres of Burnley and Padiham.
- d) Subject to the limits set out in Policy TC3, proposals for other retail uses (A2-A5) and other main town centre uses will be supported within the Town Centres of Burnley and Padiham.

Sequential Test⁶²

2) Proposals for comparison retailing (A1 Use Class) that do not comply with 1) b) due to a lack of suitable sites are required to be located in accordance with the following sequential test:

Burnley:

- a) Edge of Centre locations (300m of the Primary Shopping Area); other Town Centre locations; edge of centre locations (300m of the Town Centre Boundary); out of Centre.

Padiham:

- b) Edge of Centre locations (300m of the Town Centre Boundary); out of Centre.

3) Proposals for convenience and other retailing (A1 to A5 Use class) and other main town centre uses are required to be located in Town Centres. Where suitable sites are not available, these are required to be located in accordance with the following sequential test: Edge of Centre locations (300m of the Town Centre boundary); out of Centre.

4) When considering the sequential tests above, preference will be given to accessible sites that are well connected to the Primary Shopping Area /Town Centres. Applicants will be expected to demonstrate flexibility on issues such as format and scale.

Impact Assessment

5) Proposals for main town centre uses which do not comply with 1) a) to d) above, or are not specifically allocated for town centre uses, should be supported by an Impact Assessment addressing the following:

- a) The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

b) The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

6) The requirement for an Impact Assessment will apply to proposals of the following size/type:

Retail:

- i) Burnley – 1,000 sq.m gross and above
- ii) Padiham – 500 sq.m gross and above

Other Main Town Centre Uses:

- iii) 2,500 sq.m and above

7) Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors set out in 5 a) and b), it will be refused.

Residential

8) Proposals for residential development, including new build, conversion or change of use on appropriate sites within the Town Centres will be considered favourably subject to meeting the other policy requirements of the Plan where:

- a) Within Burnley Primary Shopping Area and within Padiham Town Centre these are located on upper floors;
- b) In Burnley Town Centre outwith the Primary Shopping Area, they do not lead to a concentration of residential uses which undermines the overall mix of main town centres uses.
- c) The development does not prejudice the lawful operating conditions or viability of adjacent land uses.

Given the floor space of the proposed food store and its siting outside of the defined town centre boundary there is a requirement to demonstrate that there are no other suitable or available alternative sites that could accommodate the proposal in or on the edge of an existing centre, through a sequential test. A retail impact assessment is also required to demonstrate that the proposal will not result in an adverse impact on the vitality and viability of Burnley Town Centre or any other centre within the catchment of the food store. A retail impact assessment and sequential test reports have been submitted in support of this application. Following a request by the case officer updated information was supplied to correct mistakes and omissions in the first report.

A sequential test accompanies this application prepared by Rapleys. Section 6 and Appendix 4 of the Retail Impact Assessment demonstrates that there are no alternative suitable or available sites that could accommodate the proposed food store and car park within any other defined centre in the catchment area of the store which extends to a 5 minute drivetime from the application site. The findings of the sequential test is therefore acceptable in accordance with Local Plan Policy TC2 and the NPPF.

In addition to the sequential test, the required Retail Impact Assessment has been submitted in support of this application, prepared by Rapleys. The assessment considers the impact of the proposal on other defined centres within the catchment of the proposed food store. The

assessment therefore takes account of the following centres, which either sit within or are located in close proximity to the catchment area:

- Burnley Town Centre
- Padiham Town Centre
- Briercliffe Road District Centre
- Colne Road District Centre
- Accrington Road District Centre
- Coal Clough Lane District Centre
- Harle Syke District Centre
- Pike Hill District Centre
- Rosegrove District Centre; and
- Lyndhurst District Centre

The Retail Impact Assessment included within its appendices a Health Check for each of the defined centres set out above. The report concludes that there is no existing, committed or planned public or private investment within the Town Centres and District Centres within the catchment area of the food store that the proposed discount food store would have a significant adverse impact upon. Therefore, the first part of the impact assessment is considered acceptable.

The Retail Impact Assessment also comprises an assessment of the trade impacts of the proposed store on existing centres and facilities within the catchment. It concludes that the application proposal will not have a significant adverse impact on the vitality and viability of Burnley Town Centre or any other centre within the study area/Borough; or within the proposed 5-minute drivetime catchment area. The development will deliver many benefits for local residents, including improved range and choice of convenience goods, increased employment opportunities for the Borough and reduced journey times for local residents.

The development also represents a commercial intent to improve consumer choice within Burnley which will have associated economic investment benefits. The application site is considered to be the only suitable location outside of the Town Centre which can meet a discount food retailer's requirements.

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

The applicant commissioned a rebuttal to the objection and an amended version of the sequential test have been received.

Due to the nature of the objection received, the council sought independent advice from an external retail consultant (Nexus Planning) who has reviewed the original retail impact assessment, sequential test, objection letter, updated sequential test and rebuttal letter.

The advice received from Nexus is summarised as follows:

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

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

Given the above, we find that the application proposal conforms to the requirements of the sequential test as articulated by Policy TC2 of the Local Plan and by paragraphs 86 and 87 of the NPPF.

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

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

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

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

Paragraph 90 of the NPPF indicates that planning applications for retail uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where they fail to satisfy the requirements of the sequential approach or are likely to result in a significant adverse impact.

In respect of the sequential approach to development we have reviewed all of the sites identified by the applicant and do not believe that any are both available and suitable to accommodate the application proposal, even allowing for appropriate flexibility. We are unaware of any other sequential sites offering realistic potential to accommodate the proposal and, as such, find that it accords with the requirements of paragraphs 86 and 87 of the NPPF.

With regard to the first part of the NPPF impact test, we do not believe that the grant of planning permission for the proposed development would lead to a significant adverse impact in respect of existing, committed and planned public and private sector investment. In terms of the second part of the test (relating to the vitality and viability of town centres), our review of the submitted retail impact assessment has confirmed that a large proportion of the impact arising from the proposal would occur at edge and out of centre stores. In assessing the potential implications of the proposal, we have also taken account of the potential for the loss of linked-trips between edge of centre foodstores and the defined town centre of Burnley.

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

We have assessed the potential impact of the proposal on the town centre and consider that the impact on the existing offer would not be significant. The proposal therefore accords with the NPPF impact test.”

For this application it is therefore considered that the potential impact of the proposal on the town centre and the impact on existing retail stores would not be significant, therefore, the proposal accords with Local Plan Policies SP1 and TC2 and the NPPF.

Design and Layout:

Paragraph 126 of the NPPF states the creation of high quality, beautiful and sustainable 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.

The existing building is typical of an early 1980's retail development comprising: low level brick masonry walls with profiled cladding above with a concealed low-pitched metal clad roof behind. The site has undergone numerous alterations over the years to convert the existing building into a cinema, the formation of the public house restaurant and more recently the inclusion of a Burger King drive thru lane which have been part of an ongoing improvement strategy to cater for the needs of the end users.

The proposed development will reduce the total floor area of the proposed building by 671.6m², reducing the overall footprint by a quarter. The proposed roof form reflects that present on the existing building but with a reduced footprint. A series of pitches would be screened with a parapet. Proposed materials comprise a grey rendered plinth, white composite panels laid horizontally and aluminium frames in Gentian Blue.

The proposed main entrance to the store will be located on the north elevation of the building, the west elevation will comprise of extensive glazing ensuring an active frontage is maintained which faces onto Manchester Road. A contemporary canopy is proposed which will extend over the main entrance and trolley park.

The proposed development aims to create a modern retail experience with a design that reflects that of other food stores within the Borough. The buildings design aims to ensure it would not appear incongruous within its immediate setting or wider area. The development will utilise a limited palette of materials with a double height polyester powder coated glazed shop front with a canopy over the entrance area to the front elevation, with a through-coloured render finish at low level and horizontal composite metal panels above to the building façade. The design concept maximises the glazing to the main entrance car park elevation providing an active, welcoming frontage.

The existing car park arrangement will be reconfigured to improve pedestrian and vehicular connectivity through the site, which will reduce the overall car parking numbers by 64 spaces from 280 parking spaces (275 standard & 5 accessible bays) to 216 spaces (199 standard, 8 accessible, 9 Parent / Child bays & 12 No. cycle hoops). The existing soft landscaping will largely remain unaffected with the existing mature trees / hedges remaining. New areas of soft landscaping will reflect the existing landscaping across the site.

On balance, the proposed scheme is considered to be well designed, forming a sympathetic yet contemporary form of development within its surroundings. 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.

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 proposal has been assessed by the Councils Environmental Health Officer who requested the attachment of 2 conditions requiring the submission of 2 noise assessment, one which took into account the noise from surrounding road networks and any other noise sources which are deemed significant on the site and one which detailed the levels of internal noise likely to be generated from the proposed use of the site.

The nearest residential property to the site is sited circa 56m and is separated by a railway line. For the Council to attach such conditions it needs to meet the six policy tests for planning conditions; Test 1—Necessary; Test 2—Relevant to planning; Test 3—Relevant to the development to be permitted; Test 4—Enforceable; Test 5—Precise; Test 6—Reasonable in all other respects.

In this respect, the Council do not consider that the request meets the abovementioned steps given the separation distance and the fact the site is separated by a railway line from the nearest residential dwelling. It is acknowledged that the proposed change of use would result in an intensification of the site but given the opening hours compared to that of the existing cinema use and adjacent public house, the council do not consider it to be significant enough to warrant the request in this instance.

The planning statement has confirmed that the hours of opening would be 07:00 to 23:00 Monday to Saturday (Inclusive of Bank Holidays) and either 10:00 to 16:00 or 11:00 to 17:00 on Sundays. Therefore, should consent be granted a condition restricting the hours of opening to the above will be attached.

Given the location of the proposed development, the separation distance to the nearest residential dwelling and that the site is separated from the nearest residential dwelling by a railway line, it is considered that that the impact the development would have on the amenity of the occupiers of nearby residential properties is minimal.

Subject to the recommended opening hours condition and the conditions proposed by the Environmental Health Officer relating to the use of plant machinery, a lighting scheme and the submission of a Construction Management Scheme, 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 Assessment has been prepared by SCP in consultation with LCC Highways to inform the transport and highways impact of the proposed development and proposed car parking. The report assesses the capacity of the site access onto the A682 Manchester Road, the A682 Manchester Road / Spring Hill Road junction and the A671 Trafalgar Street / A682 Centenary Way / A682 Manchester Road / B6240 Manchester Road roundabout junction north of the site.

The proposal includes the replacement of the current left-in-only access off the A682 Manchester Road with a signalised access designed to accommodate right turns into the application site and left and right turns out. The proposals also include a walk-with-traffic staggered pedestrian crossing facility within the junction that runs when the site access is on green. The junction will operate under a 2-stage set up. Currently, Halstead Street is (Opposite the site) left-in/left out only. At the request of the Local Highways Authority the junction layout has been amended to introduce right turns in and out of Halstead Street.

Additionally, the proposals would also extend to the Spring Hill Road / Manchester Road junction by amending the right turn lane into Spring Hill Road in order to separate that movement fully from the downhill approach to the signals. The proposed wider off-site improvements are shown in drawing SCP/200788/D10 in Appendix 4 of the Transport Assessment. The Transport Assessment concludes that there is no threat to the free-flow of traffic along the existing network as a result of the proposed development on the application site.

The reconfiguration of the car park will create a total of 316 car parking spaces of which 8 will be accessible spaces and 9 parent and child spaces. The works to the car park include the remodelling of its layout, the inclusion of a ramp to the lower level car park and the installation of 6 cycle hoops near the store entrance. The car park will serve the food store and the public house. The number of spaces proposed exceeds the requirement required as set out within Burnley's car parking standards. The car parking will be controlled to avoid long stay commuter car parking.

Given the site's central location the site is accessible on foot, by cycle and via public transport with 6 bus stops located within 400m of the site and Burnley Manchester Road train station 135m to the north.

The Transport Statement concludes that the proposals for all-movements access and off-site highway improvements and for the replacement of the cinema use with a discount food retailer meet both local and national transport policy objectives in terms of accessibility and sustainability. There is no evidence of any severe impact to the free flow of traffic along Manchester Road or to highway safety resulting from the proposals.

The initial highways proposal was assessed by the County Highways Officer who identified a number of safety issues at the junction, capacity issues at the junction, the proposal leading to capacity issues at the roundabout, operational issues and the potential burdensome increased future maintenance liabilities the proposal would lead to due to the short term installation methods.

The applicant's highways consultant has taken the initial concerns onboard and worked with the LCC Highways Officer to overcome the issues identified. The County Highways Officer upon receipt of additional information has confirmed they are satisfied that the development can integrate into the existing highway infrastructure and the impacts can be managed within

and in the surrounding network subject to a number of planning conditions being attached to ensure that all mitigation is delivered.

Subject to the application of the conditions requested the development is considered to accord with Policies IC2 & IC3 in respect on highways matters.

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. Drainage proposals have been submitted with the application.

Following review of the supporting drainage documents submitted in support of this application the Lead Local Flood Authority has confirmed that they offer no objection to the proposed development subject to the inclusion of two conditions. One of which ensures that the development is carried out in accordance with the submitted flood risk assessment and drainage strategy ensuring that the measures are fully implemented prior to the commencement of the use hereby approved. The second requires that prior to commencement of the use hereby permitted 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, be submitted to and approved by the Local Planning Authority.

These two conditions will ensure that flood risks from the 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 the Local Plan and National Planning Policy Framework.

The LLFA noted that the supporting FRA stated that permeable paving is proposed for the new parking areas. They advised that where permeable paving is included in the hydrological calculations of a development proposal the local planning authority is advised to consider the removal of permitted development rights for permeable paving. Therefore, should consent be granted permitted development rights for permeable paving will be removed.

Subject to the application of the conditions stated above the development is therefore considered to accord with Policy CC4 of the Local Plan.

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.

ERAP undertook an Ecological Survey and Assessment in March 2021. The report concludes that:

- The proposals will have no adverse effect on statutory or non-statutory designated sites for nature conservation.
- 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. There are no Priority Habitats within the site which will be affected by the proposals.

- The areas of ornamental planting and trees and shrubs within the development are of 'site' value only. The area of broadleaved woodland is of local value and will be retained.
- The cinema building is of negligible suitability for use by roosting bats and none of the trees support any features suitable for use by roosting bats. The woodland at the site boundaries is suitable 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, such as bird boxes are recommended.

The proposed development 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.

The application has been accompanied by a Tree Survey and Constraints Report which was carried out by Amenity Tree Care in December 2018. Each individual tree has been assessed with general regard to condition, health and structural suitability and commented upon in the report.

The survey area contains several high retention value trees, these have been identified within the report as T26 – T29 in the north east corner of the site. These trees have been categorised as A1 and are a particularly good example of their species as well as being principal landscape trees. These trees are proposed to be retained. The report confirms that no trees are proposed to be removed as part of the proposal.

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 of the development, the Tree Survey and Constraints Reports Recommendations and the Ecological Survey and Assessment Recommendations, it is considered to accord with Policies NE1 & NE4 and is acceptable in this regard.

Air Quality

An Air Quality Assessment was carried out in May 2021 by Miller Goodall. The report provides a review of the existing air quality in proximity to the proposed development site and assesses the potential impact the proposed development may have on local air quality.

The main source of air pollution in urban areas is generally from emissions from road vehicles. The main pollutant of health concern emitted from road vehicles is nitrogen dioxide and fine particles.

The report states that concentrations of nitrogen dioxide and PM10 are likely to be below the respective short term objectives at the proposed development, it is therefore, considered suitable for commercial use with regards to air quality.

The traffic data obtained indicated that emissions from vehicles associated with the proposed development will not have a significant impact on local air quality.

The proposal is, therefore, considered to accord with Local Plan Policies IC2 and NE5 and the adopted Air Quality Management SPD.

Contaminated Land

Local Plan Policy NE5 seeks to ensure that development proposals, as appropriate to their nature and scale, should demonstrate that environmental risks have been evaluated and appropriate measures have been taken to minimise the risks of adverse impacts.

CCG carried out a Phase 1 Desk Study in May 2021. The foregoing analysis has identified a significant number of potential environmental risks and if present, these could adversely impact on human or environmental receptors and since previous site investigation has been undertaken, an intrusive phase of investigation is recommended to determine whether the postulated pollutant linkages are actually present on site. The study recommends that this be undertaken prior to commencement of development as part of the discharge of planning conditions.

The Council's Environmental Health Officer assessed the submission and considered that the attachment of a condition required that prior to the commencement of any development, an investigation and report which demonstrates that the development can be safely undertaken and occupied has been submitted to the Local Planning Authority. The report shall be prepared by a competent consultant, experienced and specialising in the assessment and evaluation of Landfill Gas migration.

This is to ensure that the developer has demonstrated that the development can be undertaken and occupied in a safe and secure manner given the proximity of the development to a landfill site which is known to be producing landfill gas, in accordance with policy NE5 of the Local Plan.

Should consent be granted a suitable worded condition will be attached.

Coal Mining Risk:

A Coal Mining Risk Assessment has been submitted in support of this application. It identifies the site as medium risk and recommends further intrusive ground works.

The report identifies that the application site may have been subject to past coal mining activity, namely the potential for unrecorded shallow workings in the China Mine seam. The risk to the site from legacy mining features is medium.

Nevertheless, subject to the undertaking of appropriate site investigations and any potential necessary remedial measures as outlined in Section 4a of this report, the Coal Authority considers that the site may be made safe and stable for future development and the risk to the development reduced to low. The recorded coal mining legacy issues present within the site do not pose any particular implications for the layout of the proposed development. The Coal Authority advises the developer undertake a detailed Gas Risk Assessment where proposed development occurs over shallow coal reserves as is the case here.

Should consent be granted a suitable worded condition will be attached.

Conclusion:

In considering the proposal, the relevant range of material considerations have been taken into account to inform a balanced recommendation that is considered to demonstrate compliance with the aims and objectives of the Local Development Plan and The National Planning Policy Framework.

Recommendation: Approve subject to the following conditions:

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. 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).

3. The development permitted by this planning permission shall be carried out in accordance with the principles set out within the Flood Risk Assessment and Drainage Strategy (K38388.FRA/001) and Drainage Layout Plan (K38388 001).

The measures shall be fully implemented prior to the commencement of the use hereby approved 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 167 and 169 of the National Planning Policy Framework, Planning Practice Guidance and Defra Technical Standards for Sustainable Drainage Systems.

4. Prior to the commencement of the use hereby approved 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 169 of the National Planning Policy Framework.

5. 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).

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order revoking and re-enacting that Order, no permeable paving, other than those shown on the approved plans, shall be erected or placed anywhere within the site to which this consent relates without written consent from the Local planning Authority.

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 169 of the National Planning Policy Framework and Local Plan Policy CC4.

7. No development shall start until an investigation and report which demonstrates that the development can be safely undertaken and occupied has been submitted to the Local Planning Authority. The report shall be prepared by a competent consultant, experienced and specialising in the assessment and evaluation of Landfill Gas migration.

The investigation report shall:

- describe the methodology, techniques and equipment and circumstances of the survey and set out final conclusions and recommendations to the results and findings of tests and investigations
- advise on any remedial measures which demonstrate that the development can be safely undertaken and occupied.

Reason: To ensure that the developer has demonstrated that the development can be undertaken and occupied in a safe and secure manner given the proximity of the development to a landfill site which is known to be producing landfill gas, in accordance with policy E35 of the Burnley Local Plan, Second Review.

8. If remediation measures are recommended as a result of the investigations required by Condition 7 above, these measures shall be incorporated into the development, before any buildings are occupied.

Reason: To ensure that the development can be undertaken and occupied in a safe and secure manner given the proximity of the development to a landfill site which is known to be producing landfill gas, in accordance with policy E35 of the Burnley Local Plan, Second Review.

9. All specified plant and machinery shall be enclosed with sound insulating materials in accordance with a scheme to be agreed with the Local Planning Authority, which shall be permanently retained and maintained thereafter to the satisfaction of the Local Planning Authority.

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

10. Prior to the commencement of the use hereby approved a scheme and programme for the lighting of the food store 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.
- f) Details of how the external source of lighting shall be effectively screened from view of a driver on the public highway.

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 NE5 of the Burnley Local Plan

11. The development shall not start until details of refuse storage enclosures showing the design, location and external appearance have been submitted to and approved in writing by the Local Planning Authority.

The approved enclosures shall be provided before the start of the use and thereafter permanently retained.

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

12. 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).

13. 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 a food store (Class E) 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 TC2 of the Local Plan.

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

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

15. The development hereby approved shall be carried out in complete accordance with conclusions and recommendations of the submitted Tree Survey and Constraints Report carried out by Amenity Tree Care, received on the 13th May 2021, unless agreed in writing by the Local Planning Authority.

REASON: To ensure the adequate protection of trees OF landscape and visual amenity value on and adjacent to the site or those likely to be affected by the proposed development in accordance with Policy NE5 of the Local Plan.

16. The development hereby approved shall be carried out in complete accordance with the submitted Ecological Survey and Assessment carried out by ERAP Ltd Consultant Ecologists, received on the 13th May 2021, unless agreed in writing by the Local Planning Authority.

REASON: In the interests of biodiversity and to enhance opportunities for species of conservation concern and to reduce the impact of development in accordance with Local Plan Policy NE5.

17. The development hereby approved shall be carried out in complete accordance with the monitoring and reviewing section of the submitted Travel Plan carried out by SCP, received on the 13th May 2021, unless agreed in writing by the Local Planning Authority.

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

18. Prior to the commencement of the use hereby approved the cycle parking provision and car parking spaces shown on the approved plans has been completed. The area shall thereafter be kept free of obstruction and available for the parking at all times.

REASON: To ensure the provision and availability of adequate cycle and car parking and the promotion of sustainable forms of transport.

19. The proposed use hereby approved shall not operate outside of the hours of opening hereby agreed:

- 07:00 to 23:00 Monday to Saturday (Inclusive of Bank Holidays); and
- either 10:00 to 16:00 or 11:00 to 17:00 on Sundays.

REASON: In the interest of Residential Amenity

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

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

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

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

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

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

23. No part of the development hereby approved shall be occupied or opened for trading until the approved scheme referred to in condition 20 has been constructed and completed in accordance with the scheme details.

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

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

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

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

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

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

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

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

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

28. 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