

<b>Agenda Item</b> A8	<b>Committee Date</b> 7 January 2019	<b>Application Number</b> 18/01069/VCN
<b>Application Site</b>  Unit 1 Kingsway Retail Park Caton Road Lancaster		<b>Proposal</b>  Alterations/conversion of Bridge Houses, construction of new link blocks between existing building for A1, A3, B1 use. Construction of 1,915sqm for A1/A3 development to 2 new buildings, new access, car parking/servicing area and cycle link (pursuant to the variation of condition 22 on planning permission 03/01371/FUL to permit the sale of food)
<b>Name of Applicant</b>  Accrue Capital		<b>Name of Agent</b>  Mr Matthew Hard
<b>Decision Target Date</b>  19 November 2018		<b>Reason For Delay</b>  Seeking further information from the agent
<b>Case Officer</b>		Ms Charlotte Seward
<b>Departure</b>		No
<b>Summary of Recommendation</b>		Approval

## **1.0 The Site and its Surroundings**

- 1.1 The building is located within the Kingsway retail park, which is classed as an out of town centre location. It was originally occupied by PC World, but is currently occupied by a charity. The building is a non-designated heritage asset. The original building was constructed in 1938 as a public swimming baths and was designated in 1998 for its architectural significance. Following the redevelopment of this site under the 2003 permission this designation was revoked in 2016. However, the building lies within the setting of the other Listed buildings:
- 38-42 Parliament Street (Laura Ashley) – Grade II\* Listed building
  - Skerton Bridge – Scheduled Monument and Grade II\* Listed building
  - 32 Parliament Street – Grade II Listed building
  - Crown Inn – Grade II Listed building
- 1.2 The building also falls within a Flood Zone 2 and partially in Flood Zone 3 and a surface water flood risk 1:30, 1:100 and 1:1000 wraps round south-east elevation and part of the north-east elevation and car parking area.

## **2.0 The Proposal**

- 2.1 This application seeks permission for the variation of condition 22 on planning permission 03/01371/FUL to permit the sale of food, with the intention of allowing the site to be occupied by a Lidl food store. Condition 22 of this permission restricted the use of the building as follows:
- The use of the building shall be restricted to non-food A1 use; any other use would require the express permission of the local planning authority
  - The maximum gross floor space for whole unit must be 1,533 sq.m
  - The building must not be subdivided into any more than 2 units with a minimum gross floorspace of 640 sq.m

The reason for this condition was to ensure that the level and type of retail provision was in accordance with the policies at the time. The Committee report further expanded on this to state that *“given that that site does not lie within the Lancaster centre, it is necessary to consider restricting the use of any retail floor space to minimise the possibility of future changes that could result in a more significant impact on the shopping centre....which should as a minimum restrict the uses to non-food”*.

- 2.2 Originally the application also included a variation to allow for the overall floor space of the store to be increased to 1,161 sq.m to allow for the creation of a delivery pod, and also submitted plans for the elevational changes and external development. These proposals and corresponding plans have now been removed from the scheme.
- 2.3 This application is being considered concurrent to an application, reference 18/01070/FUL, which seeks external alterations to the building and of the land surrounding to facilitate the proposed change of use to a food store.

### **3.0 Site History**

- 3.1 This building was approved in 2004 as part of a development which included retail and residential development of a wider site. Planning permission was granted earlier this year for both the subdivision of this building and external alterations to facilitate this (18/00116/FUL):

Application Number	Proposal	Decision
18/01201/ADV	Advertisement application for the display of 1 directional sign, 3 internally illuminated fascia signs and 1 externally illuminated free standing sign	Refused
18/00116/FUL	Subdivision of existing retail unit (A1) into 2 retail units (A1), installation of windows to the front elevation, erection of bollards to the front, infill of panels with render to the side elevation and replacement render to the rear elevation	Permitted
05/01559/ADV	Retrospective application to retain three non-illuminated signs on front elevation at PC World	Permitted
05/00595/ADV	New signage scheme for new store	Dismissed at appeal (reference APP/A2335/H/05/1185325)
03/01371/FUL	Alterations/conversion of Bridge Houses, construction of new link blocks between existing building for A1,A3,B1 use. Construction of 1915sqm for A1/A3 development to 2 new buildings, new access, car parking/servicing area and cycle link	Permitted

### **4.0 Consultation Responses**

- 4.1 The following responses have been received from statutory and non-statutory consultees:

Consultee	Response
<b>Planning and Housing Policy</b>	A total of 4 consultation responses have been provided by Planning and Housing Policy in relation to the sequential test. The initial response provided identified that there was insufficient information contained within the sequential test to allow a robust conclusion. Following submission of further information, Planning and Housing Policy provided a further response that identified significant concerns over the robustness and findings as set out in the applicant's assessment, particular in relation to 3 specific sites. Following the submission of further information, Planning and Housing Policy provided another response that identified further concerns with the robustness of the assessment, with a remaining concern with the Lancaster Canal Quarter site. Following the submission of further information, and direct consultation with the

	<p>Regeneration Team by the City Council, Planning and Housing Policy has provided a final consultation response, the conclusions of which are summarised below:</p> <p><i>“despite calls from the Local Planning Authority to provide further clarity that the Sequential Test remains deficient and that opportunities for the Lancaster Canal Quarter site to accommodate a food store have not been pursued by the applicant and their agents.... however, had they sufficiently and fully explored this option then ... [it] would lead the applicant to the reasonable conclusion that the site would not be available in a reasonable period of time which would be a reason for the site to be discounted. I would therefore conclude, based on the further evidence provided by [the Economic Development Team] that the sequential test is passed in relation to this application”.</i></p>
<b>County Highways</b>	<p>No less than 5 consultation responses have been received from County Highways, during the consideration of this application. Initially they raised no objection, followed shortly by a response of ‘no comments’. These responses were superseded by a response which requested further information in relation to trip rates, parking, servicing and required the provision of a signalised pedestrian crossing route on Back Caton Road. Following provision of additional information a further consultation response has been received, summarised below.</p> <p><i>The Highways Authority does not dispute the findings within the Transport Assessment and the conclusion that the traffic generation will not materially impact the operation of the highway network is agreed. In respect of parking provision the surveys demonstrate that there is sufficient capacity to accommodate the existing and development demand. In respect of servicing there are no concerns. In order to make this development acceptable it will be necessary to agree the implementation of a signalised pedestrian crossing facility on [Back] Caton Road. Without an agreement on this provision then the Highways Authority would raise an objection to the proposal.</i></p> <p>The Highways Authority has subsequently removed its requirement for a signalised pedestrian crossing facility from this development.</p>
<b>Environmental Health – Air Quality</b>	<p>2 consultation responses have been received from Environmental Health in relation to air quality. The initial response objected on air quality grounds, specifically in relation to the data inputs, methodology and conclusions in the air quality assessment, and to the lack of any mitigation proposed. Furthermore, the air quality assessment needed to be updated in relation to the revised trips rates of the transport assessment.</p> <p>Following the submission of a revised air quality assessment Environmental Health has maintained their objection on the basis of the following:</p> <p><i>The proposal will result in increases in annual mean nitrogen dioxide levels between 0.02ug/m<sup>3</sup> to 0.52ug/m<sup>3</sup>, which would result in an exceedance of the objectives in the area of Lawson’s Quay and compound existing area of high pollution levels on the gyratory. Given the impacts on Lawson’s Quay (assessed to be ‘moderate’ impacts (referring to criteria in national EPUK guidance) and contributory impact on the Lancaster AQMA I would expect very significant endeavour to be put forward and demonstrated to be effective by the developer’s consultant, to both minimise and compensate for the associated air quality impacts. As it stands (proposals submitted in the revised air quality assessment), referring to criteria contained in the ‘Low Emission and Air Quality’ PAN, the impact remains to be a significant concern and does not contribute to local policies previously referred to in response to the first air quality assessment that was submitted.</i></p>
<b>Conservation Team</b>	No comments to make.
<b>Historic England</b>	No comments to make.

## **5.0 Neighbour Representations**

- 5.1 One letter of comment has been received expressing disappointment that no electrical vehicle charging points have been provided on the plans. It is considered that this should be requested of

the development as there is evidence that such facilities are good for business and the environment. It is hoped that this facility can be provided.

## **6.0 Principal National and Development Plan Policies**

### **6.1 National Planning Policy Framework**

- Paragraph 8-14 Presumption in favour of Sustainable Development
- Paragraph 80 Building a strong, competitive economy
- Paragraph 85-88, and 89 Ensuring the vitality of town centres
- Paragraph 108-111 Promoting sustainable transport – considering development proposals
- Paragraph 127-130 Achieving well-designed places
- Paragraph 151 Planning for climate change
- Paragraph 180-181 Air quality

### **6.2 Local Planning Policy Overview – Current Position**

At the 20 December 2017 meeting of its Full Council, the local authority resolved to publish the following 2 Development Plan Documents (DPD) for submission to the Planning Inspectorate:

- (i) The Strategic Policies and Land Allocations DPD; and,
- (ii) A Review of the Development Management DPD.

This enabled progress to be made on the preparation of a Local Plan for the Lancaster District. The DPDs were submitted to the Planning Inspectorate on 15 May 2018 for independent Examination, which is scheduled to commence in spring 2019. If the Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council later in 2019.

The Strategic Policies and Land Allocations DPD will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2017, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan's preparation progresses through the stages described above.

The Review of the Development Management DPD updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making. Where any policies in the draft 'Review' document are different from those adopted in 2014, and those policies materially affect the consideration of the planning application, then these will be taken into account during decision-making, although again with limited weight. The weight attributed to the revised policies in the 'Review' will increase as the plan's preparation progresses through the stages described above.

### **6.3 Lancaster District Core Strategy (adopted July 2008)**

- SC1: Sustainable Development
- SC2: Urban Concentration
- SC5: Achieving quality in design
- ER4: Town Centres and Shopping
- ER5: New Retail Development

### **6.4 Development Management DPD**

- DM1: Proposals for main town centre uses outside of town centre locations
- DM20: Enhancing Accessibility and Transport Linkages
- DM21: Walking & Cycling
- DM22: Vehicle Parking Provision
- DM23: Transport Efficiency and Travel Plans
- DM37: Air Quality Management and Pollution
- Appendix B – Car Parking Standards

### **6.5 Other Material Considerations**

- National Planning Practice Guidance

- Provision of Electric Vehicle Charging Points New Developments (September 2017);
- Low Emissions and Air Quality Planning Advisory Note (PAN) (September 2017);

## **7.0 Comment and Analysis**

This application has been submitted under section 73 of the Town and Country Planning Act 1990 to vary a condition imposed on the previous consent. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. The main issues to be considered in the determination of this application are:

- Principle of development
- Highway impacts
- Air quality
- Conditions of the previous consent

### **7.1 Principle of Development**

7.1.1 The proposal site is located approximately 450 metres from the town centre boundary and is therefore considered in the context of the NPPF (Annex 2) as an out of-centre site. Paragraph 86 indicates that local planning authorities should apply the Sequential Test to planning applications for main town centre uses (including retail) which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then edge-of-centre sites and only if suitable sites are not available should out-of-centre sites be considered. Paragraph 87 states that when considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites which are well connected to the town centre. The revised NPPF maintains that both applicants and the planning authority should demonstrate flexibility on issues such as format and scale so that opportunities to utilise suitable town centre or edge-of-centre sites are fully explored.

7.1.2 Policy DM1 echoes this position in relation to proposals for main town centre uses outside of town centre locations, requiring that any proposals:

- I. Ensure that a thorough assessment of the suitability, viability and availability of locations for main town centre uses has taken place, having particular regard to the nature of need that is being addressed;
- II. Ensure that all town centre options have been thoroughly assessed before less central sites are considered;
- III. Ensure that where it has been demonstrated that there are no town centre sites to accommodate the proposed development, preference is given to edge-of-centre locations which are well connects to the centre by means of good pedestrian and public transport networks;
- IV. Ensure that in considering sites on the edge of existing centres, developers and operators have demonstrated flexibility in terms of scale and format

7.1.3 The initial Sequential Test (ST) submitted concluded that there are “no sequentially preferable sites for the proposal. The Sequential Test is therefore passed”. Detailed assessment of this ST identified that whilst the geographical scope of the assessment was suitable the assessment did not comprehensively include all possible sites, and also had not adequately assessed the sites considered in relation to their suitability or availability. On this basis it was concluded that insufficient information has been provided to determine that the ST had been passed.

7.1.4 Subsequent to this in response to requests for further information on 3 separate occasions the agent has provided subsequent iterations and addendums to the original ST. This protracted process ultimately identified that Lancaster Canal Quarter required greater consideration yet further requests for information only yielded an inadequate response. The Local Planning Authority as a result considered it expedient to investigate via the Council's Economic Development team in relation to the site. The outcome of this investigation was that whilst this site may be suitable and at a sequentially preferential location to the application site, the site can be concluded to be not available in a reasonable timescale. On this basis it is considered that, despite the poor quality of the submissions provided by the agent, that the ST in this case can be considered acceptable. The principle of the development in this location can therefore be considered acceptable, subject to the proposal being considered acceptable in all other respects.

## 7.2 Highway Impacts

- 7.2.1 National policy seeks to reduce the need to travel and decisions that generate significant movement should be located where the need to travel will be minimised and the use of private motorised vehicles can be minimised, opportunities for sustainable transport should be maximised and improvements in the networks made where they cost effectively limit the significant impacts of the development. It also seeks to ensure safe and suitable access can be provided to the site, and that any significant impact on the transport network are mitigated effectively. The NPPF goes on to state that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be severe”. Local policy seeks to ensure that development is located within sustainable locations and that development incorporates suitable and safe access to the existing highways network and road layout in accordance with design standards, and parking is provided in accordance with Appendix B.
- 7.2.2 The application was submitted with a Transport Assessment (TA) that concluded that the proposal would not have a significant impact on the highways network and that the existing parking provision was suitable for the proposed new retail use and the existing uses. Detailed assessment of this TA identified concerns in relation to both conclusions in relation to trips rates, the car parking accumulation, lack of traffic flow assessment or junction capacity analysis, lack of data on the actual use of the car park, and how this proposal compares to other similarly sized existing or proposed Lidl and Aldi stores in the Lancaster District. County Highways also questioned pedestrian safety as a result of increased pedestrian movements generated to the site across Back Caton Road.
- 7.2.3 To address these concerns the agent informally submitted information using revised trip rates (using data sources specifically requested by County Highways), a Saturday peak parking survey, a new car parking accumulation and a comparison with existing and proposed Lidl and Aldi stores in the local area. Further concerns were identified with this information in relation to the lack of trip type analysis, lack of assessment of the Morecambe Lidl (which is of comparable internal floor space and has 91 car parking spaces) and lack of information as to why they would have a different parking requirement, and unacceptable weight given to the Bus Rapid Transport System in relation to impact on the highways network. Following this a Technical Note (TN) was submitted by the agent.
- 7.2.4 The TN re-run the assessment on the basis of the revised trip rates identified to be used by County Highways. It identified the net traffic impact (change in trips from the existing use to the proposed) of the development to be 56 am peak hour arrivals and departures, 100 pm peak hour arrivals and departures, and 68 Saturday arrivals and departures between 12:00-13:00. It is then asserted that the trip types of this net increase would be 50% and 70% of these trips being of the primary type in the weekday and Saturday respectively. It is argued that most of these trips would be primary transfer trips on the basis that people must already shop elsewhere. It is argued that this degree of change *“will have no material impact upon the operation of the highway surrounding the site. In this regard it is also concluded that there is no reason to believe highway safety would be worsened as a result of the development proposals”*. It should be noted that the Air Quality Assessment based on the same trip rates identifies that the proposal would result in an annual average daily trips of 521 vehicles which equates to an annual traffic generation of c190,000 trips.
- 7.2.5 County Highways stated that they do not dispute the findings with the TA and TN, and the conclusion that the traffic generation will not materially impact the operation of the highway network is agreed. They have gone on to state that no further assessment in this regard is required, noting that traffic count data and junction capacity analysis are not considered reasonable for this scale of development, and it is argued that the Bay Gateway relief road has had a significant reduction in the amount of traffic on Back Caton Road and the gyratory, and the proposal would only introduce a small amount of traffic at peak periods.
- 7.2.6 Given the known traffic congestion in the area of Back Caton Road there is concern that any increase could have a negative impact on the congestion in the area, and in the absence of traffic flow impact assessment and junction capacity analysis, it cannot be proven that the development will not have an adverse impact on the highway network. However, County Highways has made clear that they do not require these additional surveys to reach a conclusion of no highways impact as a result of this development, and that they consider that they could not defend an appeal on this basis of road capacity. On this basis, it is difficult to substantiate any concerns in relation to the impact on the highways network as a result of this proposal.

- 7.2.7 The car parking standards for a food retail use is 1 space per 16sqm. Therefore the gross internal area of 1,611sqm of this store would generate a requirement of 101 spaces. In addition to this, based on floor space, the requirement for the existing uses on the wider site would be 53 spaces (note that an assumption has been made that Pizza Hut has 50% public floor space). Based on the car parking standards the total car parking need for the development plus the existing uses would result in a total of 154 spaces, resulting in a shortfall of 63 spaces. Furthermore, it was noted that the Morecambe Lidl net sales area (1,071sqm) is comparable to the proposal site (1,031sqm) which has 99 car parking spaces.
- 7.2.8 County Highways in their original response noted that they considered the car park to be at 20% occupancy during the week, but noted that Saturday peak parking data needed to be provided. County Highways noted that it was “appropriate to use an accumulation based upon agreed trips rates for car parking spaces, rather than wholly relying on the parking standards”. Notwithstanding this, concern has been expressed to County Highways and the agent that the level of parking is not sufficient for the proposed use plus the existing uses, and that this could have a detrimental impact on highways safety and the operation of the existing uses, particularly given that the existing Morecambe Lidl was built with 99 car parking spaces and is of the same size as this proposed store.
- 7.2.9 In response the TN was provided. This included the results of the revised trip rates and parking data collected and the revised car parking accumulation. This states that the weekday parking accumulation will not exceed 35 parking spaces, and the Saturday parking accumulation would not exceed 44. Taking into account the existing parking demand created by the existing businesses it is stated that the car park will not be at a greater occupancy than 71%, therefore stating that 26 parking spaces will be available within the car park at any given time. In addition to this a parking beat survey was carried out at the Morecambe store on Thursday 15 and Saturday 17 November, and this data has been fed into a sensitive test on the car parking demand. This showed that the Morecambe Lidl store had a maximum car parking demand of 52 spaces during the week and 66 spaces on a Saturday. Applying these Saturday rates to the proposed development would result in the car park operating at 90% capacity on the Saturday peak, with the proposed Lidl store taking up 72% of the car park. The TN concludes that “the proposed car parking provision on the Kingsway Retail Park is sufficient to meet projected demand, that the development would not result in any increase in off-site car parking practices, and is highly unlikely that cars would need to queue to enter the retail park”.
- 7.2.10 County Highways advised that “the surveys demonstrate that there is sufficient capacity to accommodate the existing and development demand...I note that the sensitivity tests...based upon additional survey data taken from a nearby Lidl in Morecambe and this shows an increased occupancy to 90%. These occupancy levels are considered acceptable and there should be no operational issues as a result”. Whilst concerns remain in relation to the sufficiency of the car park for the existing business and the proposed development, it is difficult to substantiate an objection in relation to this matter in the absence of any concern from County Highways. Furthermore, the agent has carried out additional parking accumulation on increased rates and factored in data from surveys at the proposal site and the Lidl Morecambe, and as such has assessed a worst case scenario for the proposed development. Therefore it is concluded that the proposed parking is acceptable.
- 7.2.11 County Highways in their initial response stated that the development could be acceptable with the introduction of a signalised pedestrian crossing point on Back Caton Road on the desire line for pedestrians moving from the east to the proposed development. The justification provided for this request was on the basis that the proposed development would result in an intensification of the use of the site that would attract heavy pedestrian footfall from the new student accommodation and the wider residential area of Bulk Road, and would increase the frequency of uncontrolled pedestrian movements through queuing traffic, which would give rise to a severe highway safety concern both in terms of pedestrian safety and the likelihood of vehicular collisions. Subsequently County Highways has further clarified that where the signalised crossing is not provided they would be in objection to the scheme.
- 7.2.12 The agent advised that their client was unwilling to agree to condition being imposed on any consent granted requiring the provision of a signalised pedestrian crossing in full via a section 278 agreement. However, they did advise that they are willing to provide a financial contribution to an informal crossing (dropped kerb and tactile paving) through a S106 agreement. The justification given by the agent is that footfall across the road is generated by the existing developments and that there is only a requirement for a crossing where Phase II of the Lawson Quay development is built out, as this will provide a new footway on the eastern side of Back Caton Road, and they have referred to a

consultation response that was provided in the consideration of the Phase 2 application 17/01413/VCN that made reference to an informal crossing comprising of dropped kerbs and tactile paving. County Highways has now withdrawn their requirement for a crossing from this development and is seeking its provision solely via Phase II of Lawson's Quay (18/00820/FUL – see agenda item A5).

- 7.2.13 There is an existing service yard and docking bay facility which can accommodate two HGV at one time. No change is proposed to this servicing yard as part of this proposal. Minor changes are proposed as part of the corresponding full planning application (18/01070/FUL). Within the submitted TN it is stated that deliveries are staggered so that only one delivery is made at one time, and that only 1-2 deliveries are made in any day. County Highways has advised that they have no concerns in relation to servicing, that the yard can accommodate multiple vehicles and that there would be no impact on Back Caton Road. On this basis it is considered that the existing servicing bay can be considered acceptable for the proposed changed use.

### 7.3 Air Quality

- 7.3.1 National policy requires that planning decisions should ensure that any new development in Air Quality Management Areas (AQMA) are consistent with the local air quality action plan. Local policy requires that Air Quality Assessments (AQA) must be submitted for any development within or adjacent to an AQMA, and that development must ensure that users are not significantly adversely affected by the air quality within the AQMA and include mitigation measures where appropriate. The policy in the emerging Development Management DPD goes further to state that development must avoid worsening any emission of air pollution in areas that could result in a breach and states that the Council will encourage opportunities to deliver net reductions in air emissions through on-site or off-site measures. The Air Quality Planning Advisory Note (PAN) sets out the methodology that should be used to assess impact and sets out levels of required mitigation for certain types of development. In relation to the existing PAN document the development is of a type that triggers the standard mitigation and further mitigation taking concentration into account. This document is not adopted so no weight can be attributed to it; its use is for guidance purposes only.
- 7.3.2 The proposal site and Back Caton Road fall within the Lancaster AQMA. An AQA was submitted with the initial application. Analysis of this AQA identified a number of weaknesses, which included details of the traffic data sources, how pollution dispersion would be affected by the Lawson's Quay development, accurate uses of monitoring station data results, the degree of worsening of existing exceedances and the lack of any mitigation proposed within the scheme. The application generated an objection on this basis from Environmental Health. Furthermore, the AQA needed to be revised in response to the amended trip rates that were requested to be re-run on the TA and its associated TN.
- 7.3.3 A revised AQA has been submitted that seeks to address the concerns raised within the initial objection. The AQA identified that the annual average daily trip for this development is 521 vehicle trips, which equates to c190,000 trips per annum. This assessment concludes that the impact of this traffic generation from the proposal would result in an increase in the Annual Mean NO<sub>2</sub> and levels of particulate matter concentrations in the AQMA. However, it is stated that the increases would not result in any new exceedances of Air Quality Objective levels within the AQMA. The range of this increase is between 0.05%-1.30% for nitrogen dioxide levels and 0.00%-0.09% for particulate matter. The impact of the degree of increases within the AQMA for particulate matter are stated to of negligible impact in the location of the 22 sensitive receptor locations. For NO<sub>2</sub> the impact of the proposed increases on the 22 sensitive receptors were identified to be negligible in 19 locations, slight in 1 and moderate in 2. The slight and moderate impacts were identified to be on the lower levels of the Lawson Quay student accommodation development which is currently being constructed, but it is argued that this cannot be attributed to the proposed development because the moderate impacts are identified to occur in the "without development" and "with development" scenarios.
- 7.3.4 Notwithstanding this, the proposal would evidentially result in increases in both nitrogen dioxide and particulate matter in the AQMA. As such, in accordance with national and local policy, mitigation measures should be proposed to ensure that any impacts are adequately mitigated. Overall the AQA concludes that the total damage cost for the development is £51,320.95. It is proposed to mitigate this impact through a Travel Plan and electric vehicle (fast) charging points. The section within the AQA on mitigation is brief and not fully considered. No assessment has been made as to what the



impact the Travel Plan or electric vehicle (fast) charging points would have on the damage cost reduction. Following consideration of the revised AQA, Environmental Health has maintained their objection to the scheme based on the lack of adequate mitigation proposed. The proposal does not include electrical vehicle charging points, measures to reduce the impact of delivery fleets, tangible measure to promote use and allow staff to choose low emission transport option and proposal for compensatory measures.

- 7.3.5 It is considered that at present the mitigation proposed is not acceptable. The proposal should be amended to include 4% of parking spaces, equivalent of 4 spaces, for electrical vehicle charging points which would need to be fast chargers of 43KW/63A. It should also include measures to alter the delivery fleet and a Travel Plan with measurable targets, especially in relation to staff. Assessment should then be made to quantify the reduction in damage cost that these proposals would result in. Subject to the agent providing an acceptable suite of mitigation measures with robust assessment of the residual damage cost, it is considered that the proposal could be considered acceptable in relation to air quality. A verbal update will be provided to Committee in respect of this matter.

## 7.4 Conditions

- 7.4.1 As referred to above, the effect of the grant of permission of a section 73 is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. Decision notices for the grant of planning permission under section 73 should review each condition applied to the original planning permission and assess whether or not the condition meets the test of paragraph 55 of the NPPF. The following table reviews each of the conditions:

No.	Condition	Proposed Action
1	Time condition	Remove
2	Permission relates only to specified plans	Replicate
3	Relates only to specified plans	Replicate
4	Phasing plan for works to listed building	Remove
5.	Details of materials and finished	Remove
6.	Details of specified items	Remove
7.	Details of paint work	Remove
8.	Surface treatments	Remove
9.	Landscaping	Remove
10.	Car parking and cycle storage	Replicate
11.	Pedestrian and cycle links	Remove
12	Linked to implementation of above prior to occupation	Remove
13	Green travel plan	Amend to require continued implementation of agreed plan. Include new conditions to require submission and agreement of final travel plan. In the event that an acceptable framework travel plan is supplied.
14	Contamination	Remove
15	Surface water through trapped gullies	Replicate
16.	Finished floor levels	Remove
17.	Construction hours	Remove
18.	Building recording and analysis	Remove
19.	Drainage on a separated system	Replicate
20.	Surface water flow levels	Remove
21.	Surface water drainage into culvert	Remove
22.	Subdivision	Amend to allow
23.	Use of Unit 2	Replicate
24	External lighting	Remove
25.	Decorative glazed panel advert feature	Replicate

## **8.0 Planning Obligations**

8.1 There are no planning obligations to consider as part of this application.

## **9.0 Conclusions**

9.1 Following robust assessment of the proposal it is considered that the change of use of this site for use for the sale of food can be considered acceptable given that there are no suitable or available sites that are in a town centre or edge of centre location. In addition following detailed assessment of the application in relation to highway safety and efficiency it is considered that the continued use of the existing access, parking and servicing bay can be considered acceptable and would not result in any impact on the wider highways network. Subject to an appropriate suite of mitigation measures being agreed in relation to air quality, the proposal can be considered acceptable.

## **Recommendation**

Delegate back to the Planning Manager to approve subject to the resolution of air quality mitigation, but resolve that Planning Permission **BE GRANTED** in principle subject to conditions (which includes a variation to condition 22 on planning permission 03/01371/FUL):

1. Permission relates only to specified plans – replicated from condition 2 of 03/01371/FUL
2. Relates only to specified plans – replicated from condition 2 of 03/01371/FUL
3. Car parking and cycle storage– replicated from condition 10 of 03/01371/FUL
4. Green Travel Plan – amend condition 13 of 03/01371/FUL to require implementation of agreed plan
5. Travel Plan for Unit 1 retail food store
6. Surface water through trapped gullies– replicated from condition 15 of 03/01371/FUL
7. Control of floor space, future subdivision and restriction to A1 use - amendment of condition 22 of 03/01371/FUL
8. Restriction of use of unit 2 to be A1 (non-food retail) or A3 restaurant use. Restriction from use as public house. replicated from condition 23 of 03/01371/FUL
9. Decorative glazed panel advert feature – replicate from condition 25 03/01371/FUL

## **Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015**

Lancaster City Council has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the agent to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been made having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance

## **Background Papers**

None