

Application Number 07/2020/00768/FUL
Address Windmill Hotel
Preston New Road
Mellor Brook
Blackburn
Lancashire
BB2 7NS
Applicant James Hall & Company Ltd

Agent Mrs Deborah Smith
Albert Edward House
The Pavilions
Preston
PR2 2YB

Development Demolition of existing public house and related infrastructure and erection of petrol filling station, convenience store and petrol filling station including associated canopy 6 fuel pumps underground storage tanks, EV charging points, car parking and associated landscaping.

Officer Recommendation **APPROVE**
Officer Name Catherine Lewis

Date application valid 15.09.2020
Target Determination Date 10.11. 2020
Extension of Time 04.03.2022



1.0 SUMMARY

1.1 Members considered a report on this application at their meeting 29 July 2021 and resolved to defer the application for the following reasons:

- To request LCC Highways to reconsider their comments on the application
- To further investigate the air quality implications of the development and
- The implications of the development in relation to the Localism Act.

The previous report is attached as Appendix 1.

1.2 Further information has been received by both the applicant and consultants acting on behalf of the resident's groups. Further re-consultation has taken place with the local residents and the consultants acting for some of the residents, on the submitted information.

1.3 A site visit has also been undertaken with one of the ward councillors, an officer from LCC Highways and officers from South Ribble Planning Department. Further consultation has taken place with LCC Highways and the Council's Environmental Health Officers.

1.4 LCC Highways have carefully considered the additional information and following the submission of a Road Traffic Audit and additional plans to demonstrate the tracking of vehicles in to and out of the site remain satisfied that there are no highway grounds to refuse the application.

1.5 The Environmental Health Officer has considered the additional submitted information and remain satisfied that there are no reasons to refuse the application in terms of air quality.

1.4 On balance and subject to appropriate conditions the proposed development is acceptable in terms of residential and visual amenity.

1.0 Background

1.1 Members considered a report on this application at their meeting 29 July 2021 and resolved to defer the application for the following reasons:

- To request LCC Highways to reconsider their comments on the application
- To further investigate the air quality implications of the development and
- The implications of the development in relation to the Localism Act.

1.2 Further information has been submitted by both the applicant and Consultants representing residents' groups Samelsbury Residents Forum and Mellor Brook Matters. Following further consultation on the submitted information this application provides an update on the three aspects.

2.0 Submission of further information

2.1 The applicant submitted the following information set out in a covering letter dated 1st September 2021.

- Air Quality Assessment by Redmore Environmental to demonstrate that the development will not have a significant impact on neighbouring residents during either the construction or operational phases of the development.
- A Highways Technical Note by PSA that sets out the advancements in the highway elements of the proposal since the appeal dismissal.
- A Noise Impact Technical Note that demonstrates the improvements in relation to the noise aspects of the proposal since the appeal dismissal.
- Revised Drawings P19 P5 and P32-P3 showing the revision in the colour of the louvres to Grey
- A revised Design & Access Statement v5 that includes a new section on fuel safety, confirmation of the agreed hours for deliveries and a revised drawing schedule.

2.2 The applicant has also provided the following additional information:

- Revisions to the Design and Access Statement with the most recent being Version 7 November 2021.
- A Road Safety Audit Report Number 2022/PSA/1527 dated 17.01.2022
- An Air Quality Report Reference: 4825r2 Date: 21 January 2022.

Drawings ref:

- P-37 P2 Site Plan HGV Tracking Enter from the East.
- P-38 P2 Tracking Exit Parked Cars 1
- P-39 P2 Tracking Exit Parked cars 2
- A further updated Air Quality Report Reference: 4825r3 Date: 16 February 2022.

3.0 Consultation

3.1 The council has undertaken a 21-day consultation with over 600 residents on the 30 September 2021 and a 14-day consultation period on the 3 February 2022.

A total of 33 responses for the September consultation and a total of 22 responses for the Feb 2022 consultation have been received – a further verbal update will be provided at the meeting.

Many of the objections are similar to those previously reported and a short summary is included below.

Summary of objections

- Concern about the HGV ability to access and egress the site safely. As a HGV driver considers the arrangements as dangerous,
- James Hall has deliberately let the site fall in to disrepair
- Having reviewed the recent amendments which have made minor tweaks to the design but these do not address the issues in respect of noise and light pollution.
- The development not in keeping with the area
- Object due to pollution, not suitable location and road safety issues.
- Object as a community to the garage the impact on other businesses and the disruption to local homes is a concern.

- Living directly next door there is concern about the parking, electric charging points air and water machines.
- Concern about the noise and light pollution and would have fewer issues if it was just a retail outlet.
- The site should be used for affordable housing.
- Concern about contamination due to the use of the site as a petrol filling station
- The proposed use would obscure the pedestrian crossing.
- The authority has pledged to be carbon neutral how can this scheme be supported.
- The scheme is too large and would dominate the area

Summary of support

- I live directly opposite the Windmill and in respect of the amended submission and due to my concerns over the future possible alternative uses of the property/site, I now fully endorse the application and 100% hope this is now passed for development as outlined and works start as quickly as possible

Mellor Parish Council -Reiterate their objection and consider that the changes are mere tinkering with the original design.

The proposed development will have a considerable detrimental impact on the lives of those residents close by. Increase traffic, additional noise vehicle movements, exhaust pollution and light pollution. The development would lead to dangerous traffic conditions.

The site should be used for housing and there is concern the site would become contaminated making it difficult to use in the future.

Increase in air particles would have an adverse impact on the locality

Request the application be refused and concern that the proposal does not meet Policy B1 of the South Ribble Local Plan

Further correspondence has been received from the consultants acting on behalf of the resident's group and includes:

- Sheila Wright Planning Ltd letters dated 12th August 2021, 1st December 2021 and more recently their email dated 24th January 2022 and SK Transport Planning LTD letters dated 9th August 2021 and 1st December 2021.

This report provides an update to the three reasons for deferral:

4.0 LCC Highways to reconsider their comments on the application.

4.1 Following the Planning Committee meeting on 29th July 2021 the case officer Catherine Lewis, the Planning Manager Steven Brown, together with the ward councillor Cllr B. Yates met with Dave Allen the Highways officer from LCC on the 13 September 2021.

4.2 The meeting provided the opportunity for LCC Highways to understand the concerns that had been raised at the Planning Committee meeting and by the letter dated 9 August 2021 from SK Transport Planning Ltd. LCC Highways provided a formal response on 14 October 2021 to the issues raised which is attached for completeness (Appendix 2).

4.3 SK Transport Planning Ltd then requested a meeting with officers and LCC Highways to discuss the Highways response. A meeting was then arranged by SK Transport Planning Ltd on 24th November 2021 which included Dave Allen LCC Highways, Catherine Lewis and

Steven Brown. Following that meeting a further letter was received from SK Transport Planning Ltd dated 1st December 2021 (Appendix 3).

4.4 On 9th December 2021 Dave Allen sent a response to the planning department which advised that the questions raised had been considered at length. The extract below sets out Dave Allen's response to the points raised in the letter from SK Transport 1st December 2021.

I note that there is nothing new here and these questions have been considered at length previously. I offer the following LCC Highway responses to the 8 points listed in the letter.

- 1) *Yes LCC have never denied that the vehicular access onto the A677 Preston New Road was historically closed due to highway safety concerns. As previously stated, I can confirm that the old entrance to Preston New Road was closed at the request of LCC (over 20 years ago) primarily due to poor visibility to the west from the access point. Visibility requirements would have been more onerous then and the speed limit was higher.
We have maintained an objection to reopening the access point for unrestricted use but have agreed to the current proposal for ingress only with appropriate measures to forbid egress onto Preston New Road.
Just to save further questions regarding further other access points on this road - any future LCC recommendation would be based on the planning guidance current at that time, and if the recommendation was not based on planning guidance the decision would be open to challenge at appeal.*
- 2) *LCC have not requested HGV tracking for a right turn into the entrance, as the right turn will not be for HGV's so there is no requirement for this tracking. There will not be any pumps to dispense to HGV's. Subject to detail design there might be a need to include an appropriate Traffic Regulation Order (TRO) to ban the right turn by HGV's.*
- 3) *No - there are no confirmed physical or legal measures proposed or agreed to stop these righthand service vehicle movements into the site from taking place. As previously stated, the latest site plan (P-18 Rev P5) has been amended to improve site access. Again - subject to detail design there might be a need to include an appropriate Traffic Regulation Order to ban the right turn by HGV's. Hence, we will require a prohibition of HGV right turns off A677 if identified at the s278 stage.*
- 4) *No independently prepared Stage 1 Road Safety Audit has been requested as previously stated, any issues would be identified at the s278 stage, but to minimise concerns I have requested this from the developer.*
- 5) *Yes to exit from the service yard the HGV must undertake a turning manoeuvre, requiring the entire width of the carriageway of Branch Road. And if this is obstructed by resident parking the vehicle would need to part reverse within the PFS (with staff available to marshal internal traffic). This manoeuvre in Branch Road can be accommodated in the highway and if there is obstruction further manoeuvring within the PFS is not uncommon to complete egress.. As stated this is a common situation with the redevelopment of constrained sites and town centres, and LCC do not consider this to be a significant highway safety issue. Further it is not unusual for developers and highway consultants to propose a similar situation with a 'banks man ' to oversee the operation and each situation is considered on its*

merits. I noted that SK Transport Planning Ltd would never request such a situation, but then developers/consultants choose their battles.

- 6) *If a car is parked opposite the exit this would reduce the available carriageway by 2-2.5 metres, so the service vehicle would need to reverse back an similar distance. It is evident from the drawings that there is adequate space within the site to accommodate this manoeuvre, and I would have expected Mr Kitching with engineering judgement to acknowledge this. But for clarity I have asked the developer to provide this vehicle tracking too.*
- 7) *Planning Inspectors do not seem to be convinced that capacity is a reason to resist development and LCC have taken the view that this level of additional traffic and turning movements to and from the site would not have a 'severe' impact.*
- 8) *The reason for refusal refers to highway amenities and not related to highway safety, I therefore leave this to the district council to comment on. But in reference to point 7 above - The inspector did not judge that the development would have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, and I have no reason to doubt the Inspector*

Re the foot note – *I did not put the question to the Local Residents Group at the meeting. I repeated my question to Michael Kitching of SK Transport Planning Ltd (acting as advisor on highway matters); that if he was so convinced that the proposals would have a 'severe' impact then in his professional capacity he should substantiate his claim. This was a repeat of my written request (my email of 4 November 2021) and he has chosen to avoid providing evidence of severity of impact to support his case.*

4.6 LCC Highways did request additional information from the applicant in terms of a Road Traffic Audit (RTA) and drawings to demonstrate the vehicle movements using the access points. This information has been received and a further consultation exercise with residents has been carried out.

4.7 Dave Allen has since responded 09.02.2022 to state:

I note the submission of the following documents: -

*A Road Safety Audit: Report Number 2022/PSA/1527dated 17.01.2022
P-37 P2 Site Plan HGV Tracking Enter from the East.
P-38 P2 Tracking Exit Parked Cars 1
P-39 P2 Tracking Exit Parked cars 2*

A Road Safety Audit: Report Number 2022/PSA/1527dated 17.01.2022

The road safety audit considered the scheme in terms the safety implications for road users and the terms of reference for this audit are those given in GG119, Design Manual for Roads and Bridges.

The safety audit identified an issue with the access in terms right turning HGV movements. That is – 'Swept path analysis provided appears to indicate that a right turning HGV will encroach significantly into the westbound traffic lane. Further analysis shows that the right turn lane is only 2.5 metres wide which is insufficient to accommodate a large articulated HGV (normally 2.6 metres wide). Encroachment into the adjacent live running lane could

increase the risk of side swipe type conflicts between waiting or turning HGVs and through-traffic or increase the risk of nose to tail shunts as through-traffic is forced to wait for a turning HGV to complete its manoeuvre.'

To address the issue the audit recommends – 'The need for the right turn manoeuvre by HGVs should be investigated further. If required, the right turn lane should be suitably widened to allow to accommodate all likely types of visiting vehicles.' As previously stated any safety Audit recommendations will be incorporated in the detail construction drawings at the implementation of any s278 agreement for the highway access and highway works. In this case the developer has already submitted an amended plan for the site access with tracking (see P-37 below)

The safety audit does not rise any further highway safety issues and I have no reason to question the report findings.

Vehicle Tracking Drawings –

- **P-37 P2 Site Plan HGV Tracking, Enter from the East.**
- **P-38 P2 Tracking Exit Parked Cars 1**
- **P-39 P2 Tracking Exit Parked cars 2**

The drawing P-37 illustrates a widened right turn lane for HGV entry from the east. The submitted tracking is acceptable as the basis of any s278 highway works agreement. I should point out that there are no HGV fuel pumps provided and the only HGV movements will be for servicing.

P-39 shows that the HGV can egress with cars parked as they appear to do, half on the footway (as illustrated on Google Street view), but for completeness P-38 shows that the HGV can still egress if the cars are parked fully on the carriageway. The drawings illustrate my stated position, that the manoeuvres can be performed without creating safety issues on Branch Road.

I am satisfied with the additional information provided by the developer and my suggested conditions of 14 October 2021 are still appropriate.

4.9 On that basis subject to the conditions as set out in the LCC Highways response of 14 October 2021 there are no technical highway objections to the scheme.

5.0 Highway Amenity.

5.1 LCC Highways point out that the reason for refusal refers to highway amenities and not related to highway safety. It is acknowledged that the second ground for dismissal in the Appeal Decision Letter for the application site related to matters around the impact on residential amenity, specifically noise and disturbance. In consideration of this aspect the applicant has provided additional information in the form of the Technical Note dated 8th September 2021.

5.2 The Council's EHO officer has provided the following response on 10 February 2022:

It is noted that the proposed building within the current application has been moved from the original application. This initially provided a degree of shielding to the residential properties to the north and west of the site in terms of both visual appearance and noise. This is no longer the case with the building occupying the existing public house footprint. It is acknowledged that there is some separation between these properties and the fuel pumps, main car parking area and store.

The submitted noise assessment, 50-151-R1-1, dated August 2020 by e3p has addressed this issue and has provided an assessment of the likely sound levels from the site affecting these properties. As part of this assessment mitigation measures have been included. Additional information has also been provided in the form of the Technical Note dated 8th September 2021.

With respect to traffic movements the submitted noise report and additional technical note addresses the potential impact from additional traffic movements. It has identified that the current traffic flow along Branch Road is 2,100 AADT. It is noted that the air quality assessment confirms a baseline figure of 5,595 vehicles along Branch Road between the junction with the A677 and site entrance in 2018 increasing to 6,306 in 2023 with a do-nothing scenario and 7,969 with the development. Therefore, an increase of 1,663 vehicles a day along this section of road.

This is significantly greater than the 95 new trips/day, suggested within the noise report, although the report does state that those visits to the petrol filling element of the application are not counted as there are by-pass trips. This is obviously not the case when considering the top section of Branch Road between the site exit and A677 Junction. Although from a noise perspective a consideration of car doors etc should be included.

However, the guidance document - Design Manual for Roads and Bridges – does suggest a <3dB increase would have a minor impact. As 3dB equates to a doubling of sound power and therefore a double of traffic volumes. It can be included that over the course of a full day the anticipated traffic increase will not result in a doubling of the traffic flow levels at this point and therefore it can be concluded in line with the relevant guidance document that no significant adverse impact be experienced by the four properties opposite the site at this location. A consideration of plant noise has been undertaken in line with BS4142:2014, the appropriate British Standard. Having reviewed this assessment, we are satisfied and agree with the findings. However, conditions are required to ensure the development continues to ensure no significant adverse impact in terms of sound emissions upon the neighbouring properties continues.

It is noted however that no assessment has been included on the air and water bay identified on the submitted plans. This therefore needs to be assessed, or removed from the proposal. A condition requiring the assessment prior to development of this element of the site would be appropriate in this circumstance.

In conclusion; Activities at the site will be heard by neighbouring residents, as with the previous use as a public house. However, given the assessments undertaken and presented in the submitted information these will not result in a significant adverse impact and are therefore in terms of the National Planning Policy Framework acceptable, subject to a number of conditions.

5.3 On that basis the Environmental Health Officer (EHO) has concluded that the activities at the site would not result in a significant adverse impact and subject to conditions the development is acceptable. It should be noted that the EHO considers that the hours of delivery to the site could be 07:00 to 23:00. However, the applicant has agreed to accept a condition to reduce this even further. On that basis it would be difficult to sustain a reason to refuse the application based upon noise.

5.4 The consultant SWA acting on behalf of the Samlesbury Residents Forum and Mellor Brook Matters has provided an Appeal Decision Letter Ref: APP/N1025/A/14/2226966 Land at M1 Junction Bostocks Lane, Sandiacre NG10 5QG which relates to a two-storey

restaurant with associated drive thru, car parking and landscaping (McDonalds Appendix 4). The consultant advised that in dismissing the appeal, the Inspector points out that the impact of noise is not simply a matter of vehicle movements, but includes the stopping and starting of engines, slamming of car doors and the blaring of car sound systems- basically the “human noise” associated with this kind of development.

5.5 The consultant advises that this decision is of relevance here too. The McDonalds site did include a seating area and concerns were raised about a small number of youth gatherings at weekends. Although the appellant associated with the appeal suggested that they would relocate the seating area and would also accept a condition to provide an acoustic barrier to address door slams the Inspector considered that there would be no certainty that such a proposal would be acceptable in design terms. The Inspector considered that the issue is whether such noise would be sufficiently distinct and frequent that it could be considered to be detrimental to the living conditions of the occupiers of the nearby residential properties, to the extent that they would give rise to a change in behaviour and/or attitude. The Inspector found that on the balance of evidence before them that it had not been shown conclusively that the appeal scheme at the McDonalds site would not have an adverse impact with regard to noise.

5.6 Having considered the McDonalds appeal decision letter officers consider that there are material differences to the current application. The McDonalds appeal site had an extant permission for an office development whereas the current application is already a Public House. With regard to the application site there is no proposed seating area or reason for small numbers of youths to congregate as you would expect at a McDonalds. The McDonalds decision did not have a noise assessment which considered the impact of human noise whereas the Windmill site does have a noise impact assessment that references door slams etc. It is therefore considered that the McDonalds appeal decision letter is not directly comparable to the current application site.

5.7 It is acknowledged that due to the proposed development this would translate to an increase in the level of activity on the site. However, the Public House could as fallback position operate more intensively. Further, the EHO officer has confirmed that the applicant has submitted a noise assessment which considers the impact of door slams.

5.8 The consultant has also requested that a response is provided to the question “What has changed in terms of noise and disturbance since the Inspectors decision for the Windmill site.

5.9 The Inspector’s Decision for the Windmill Appeal states:

However, the noise assessment appears to focus upon deliveries and plant machinery; and not the effect of increased comings in and goings of customers and the noise disturbance that this would have upon residents. Therefore, despite the assessments provided by the appellant, it is my judgement that there would be increased noise, traffic and activity from the site, both in terms of the petrol filling station and the convenience store. The effect of the proposal would be over a long period of the day, every day, without respite. This would materially alter the sound environment experienced by surrounding neighbouring residents, to their detriment (Appendix 5).

5.10 In answer of that question, the applicant has advised that supporting evidence has been gathered regarding general noise and this was included in the submitted Noise Impact Assessment. A further technical note has also been provided in September 2021. Further, the applicant agreed to reduce the stores operating hours to 7am to 10 pm Monday to

Saturday and 8am to 10pm Sundays and Bank Holidays in the interests of residential amenity.

5.11 It is acknowledged that there would be increased noise and disturbance to the local residents and the Environmental Health Officer has carefully considered the points raised in the Appeal Decision Letter. Given the additional information, there is no technical reason to refuse the application on noise grounds, a balancing exercise needs to be undertaken as to the merits of the application which is undertaken at the end of the report.

6.0 Further investigate the air quality implications

6.1 The applicant submitted an Air Quality Report in September 2021. A letter was received on the 1 December 2021 from SWA consultants expressing concern about the information within the Air Quality Report (Appendix 6). To summarise, the concerns related to the Air Quality Assessments failure to reference the impacts of the increase in vehicle movements and the associated stopping and starting of engines. The Consultants acting on behalf of the residents argue that the AQA conclusions are simplistic and request that a rerun to take into account the significant increase in traffic as detailed by the SK Transport correspondence.

6.2 Paragraph 186 of the NPPF states that:

Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

6.3 The Council's Environmental Health Officer has assessed the information and advised that:

A review of the submitted air quality assessment, ref 4825r2, dated 21st January 2022 by Redmore environmental and the previous report 4825r1 dated 16th August 2021 have been undertaken. This has covered the construction and operational phase of the development. It is however noted that the applicant has not used the Councils preferred and recommended methodology in assessing air quality impacts, which includes a damage costs assessment based on the emissions from the development.

It is also noted from the design and submitted plans that two electric vehicle charging points have been submitted. It is this authority's standard requirement for a minimum of 10% of available bays to be given over for sole EV charging use. 25 parking bays are to be included within the development, with 10% equating to 2.5 bays i.e. 3 bays. Although given the government's current policy regarding electric vehicles to secure the long-term success of the PFS additional charging points may be considered.

A review of the construction phase assessment has identified an appropriate assessment methodology has been utilised. A monitoring location with the centre of Mellor, operated by Ribble Valley BC has been identified for use within the assessment. Given the location of this monitoring point and the development site it is highly likely that pollutant levels will be higher

at the development site. However, no evidence to confirm this is currently available, with the monitoring location providing a background figure.

The conclusion from the construction phase suggests a medium impact from demolition and suggests a number of control measure. All of which must be implemented and maintained throughout the construction phase.

In relation to the operational phase of the development the assessment relies on a concentration assessment methodology, which unsurprisingly identifies a negligible impact. Many Local authorities are moving away from this approach as it does not adequately address the impact from development on air quality and South Ribble is no exception, detailing an emissions-based approach to air quality assessments, which identifies the damage from the development and transfers this to a cost against which appropriate mitigation measures can be identified.

The air quality assessment current fails to adequately consider the impact of the development by way of an emissions assessment, and an emissions assessment / damage cost analysis is required followed by appropriate mitigation measures in addition to the Council's standard mitigation measures (construction emission controls and EV charging points, which have been detailed within the wider submission) and any other mitigation measures proposed to cover other elements of the development e.g. highways, ecology etc. As such until this information is submitted we cannot support the application.

6.3 Additional information has been submitted in terms of a revised Air Quality Assessment ref 4825r3 dated 16 February 2022. The EHO has advised that:

In addition to, and following on from, previous comments from the department the applicant has submitted a further revised air quality assessment report dated 16th February 2022 ref: 4825r3 produced by Redmore environmental.

This report updates the assessment of the operational phase of the development and includes the council's preferred methodology detailed within the 'Planning Advisory Note: Low Emissions and Air Quality, a Developers guide, Sep 2020'.

The methodology considers the damage cost of the development in line with set criteria.

The report considers the additional traffic to be generated by the development. This has been identified within the traffic assessment as an additional 95 AADT with the remaining visits being by-pass traffic. Lancashire County Highways authority have not disagreed with this.

As such it is now considered that an acceptable and robust approach has been undertaken by the applicant to identify the potential impact from additional transport generated from the site in line with traffic figures that have not been challenged by the Highways department.

The conclusion of the assessment confirms that the site can be classified as a type 1 site in line with the Council's methodology and this details basic mitigation measures which have been included within the design.

In addition, a consideration of the petrol filling operations has been undertaken, and in line with national guidance no further action is required.

In conclusion the department has no objections to the granting of the application on the grounds of air quality and does not consider a refusal on these grounds could be justified.

6.4 The applicant has submitted a revised plan that includes additional electric vehicle points and has removed the air and water facilities. Given the additional information that has been submitted to address the concerns from local residents and the third-party consultants the EHO has confirmed that there are no reasons to justify reasons for refusal on air quality.

7.0 Localism Act

7.1 The Localism Act Nov 2011 sought to give effect to the Government's ambitions to decentralise power away from Whitehall and back into the hands of local councils, communities and individuals to act on local priorities. The Localism Act set out a series of measures with the potential to achieve a substantial and lasting shift in power away from central government and towards local people. They included: new freedoms and flexibilities for local government; new rights and powers for communities and individuals; reform to make the planning system more democratic and more effective, and reform to ensure that decisions about housing are taken locally. With regard to local communities the Act sought to provide:

7.2 New rights and powers for local communities

The Act:

- makes it easier for local people to take over the amenities they love and keep them part of local life
- ensures that local social enterprises, volunteers and community groups with a bright idea for improving local services get a chance to change how things are done
- enables local residents to call local authorities to account for the careful management of taxpayers' money

7.3 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan and any other material considerations. As the Localism Act is dated 2011 and the South Ribble Local Plan is dated 2015 it is considered that aspects of the Localism Act relevant to planning would be addressed through the implementation of the planning legislation.

The Localism Act does not prevent the application being determined through the planning process.

8.0 Any other Issues

8.1 Concerns were raised about fuel safety and the applicant has provided the following information:

8.2 James Hall follow the guidance for the installation of fuel sites from an industry standard known as the Blue Book but they go over and above these regs. The blue book requires that tanks only be single lined, but James Hall double line the tanks. No monitoring is required by the Blue Book yet James Hall use a third party to monitor its sites 24 hours a day and in real time. If there is an issue the operation ceases immediately. All work is signed off by the Petroleum Officer and a license granted on completion. A fire Risk Assessment is also legally required for all sites.

9.0 Conclusion and Planning Balance

9.1 The application was deferred for three issues to be considered which are set out in the main body of the report. The paragraphs within the previous report are relevant and have

been revised and set out below for completeness: The applicant has advised that the submitted details address the concerns raised by the Inspector and that the following benefits weigh in favour of the scheme.

- Economic: job creation, strengthening the rural economy, business rates and other revenues.
- Social: provision of walkable services, improving choice
- Environmental: redevelopment of a brown field site the gateway to the village. Creation of biodiversity, installation of EV charging points.

- 9.2 The Inspector previously considered some of these aspects and acknowledged that there would be some economic benefit and there would be some social benefits. However, they found that the adverse environmental effect upon the character and appearance of the area is of significant weight and there would be social harm to the neighbouring residents from increased noise and disturbance.
- 9.3 With regard to this application and the additional submitted information it is acknowledged that there would be some weight to the economic and social benefits. In terms of the environmental aspects, a number of trees have previously been felled and therefore any biodiversity increase would have a neutral effect. The revised plans submitted in June 2021 in terms of a slightly smaller design with materials that are more in keeping with the Mellor Brook, and the opportunity to provide additional planting to Branch Road, are welcomed.
- 9.4 Although the building is of a contemporary design the use of the natural materials mainly slate and stone with some render seeks to contextualize the building within the surrounding area. These aspects on balance outweigh refusing the application on the grounds of the development being out of character of the village.
- 9.5 This application and additional information has again engendered a significant amount of local objection. The site itself was formally used as a public house and there were no restrictions in terms of its use from a planning perspective. Therefore, effectively as a fallback position under the current lawful use of the site a 24-hour eatery could open up utilising the existing building without the need for planning permission
- 9.6 For the Council to set aside the appeal decision the Council must be satisfied that the proposal has addressed the concerns previously raised. Over the past seven months, third party consultants have raised issues that have required additional information and re-consultation with Statutory consultees and residents. However, there are no objections from any statutory consultees including LCC Highways and the Council's environmental health officers- with aspects raised, controlled by appropriate conditions. With regard to the impact upon residential amenity- the submission of additional information including the noise report and air quality report demonstrate that there would be no significant impact to the amenity of adjoining residents in terms of increased noise and disturbance. The revised footprint together with the reduction in opening hours of both the petrol filling station and the convenience store, and the construction of an internal acoustic fence attract moderate weight. On balance, these aspects would address the social harm to the neighbouring residents from increased noise and disturbance and is acceptable.

9.7 The application is recommended for approval subject to conditions controlling the development

10. RECOMMENDATION

10.1 Approve with Conditions

RECOMMENDATION:

Approval with Conditions.

RECOMMENDED CONDITIONS:

1. The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this permission.
REASON: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
2. The development, hereby permitted, shall be carried out in accordance with the submitted approved plans

Site Location Plan
Drawing No. P.18 P6 Site plan
Drawing No. P.19 P5 Elevations
Drawing No. P.22 P4 Site plan First Floor Plant Area
Drawing No 2564 202A Planting Plan
Drawing No 2564 102A Landscape Layout
Drawing No P -23 Rev 4 Tracking 2

REASON: For the avoidance of doubt and to ensure a satisfactory standard of development

3. Prior to the commencement of demolition/construction a Construction Traffic Management Plan (CTMA) shall be submitted to and approved in writing by the Local Planning Authority (in conjunction with the highway authority). The approved Plan shall be adhered to throughout the construction period. The CTMA shall include and specify the provisions to be made for the following: -
 1. The parking of vehicles of site operatives and visitors;
 2. Loading and unloading of plant and materials used in the demolition / construction of the development;
 3. Storage of such plant and materials;
 4. Wheel washing facilities;
 5. Periods when plant and materials trips should not be made to and from the site (mainly peak hours but the developer to identify times when trips of this nature should not be made)
 6. Routes to be used by vehicles carrying plant and materials to and from the site;
 7. Measures to ensure that construction and delivery vehicles do not impede access to adjoining properties.
 8. The location of the site compound
 9. Appropriate measures to control the emission of dust and dirt during construction

- 10. Appropriate measures to control the emission of noise during construction
- 11. Details of all external lighting to be used during the construction
- 12. A scheme for recycling/disposing of waste resulting from demolition and construction works

4. Prior to the commencement of development, details of all external lighting equipment shall be submitted to and be agreed in writing by the Local Planning Authority. The scheme shall include:
- a. full details of the luminaries to be used
 - b. the details of the light fittings;
 - c. the installation heights
 - d. the lux levels
 - e. impact on adjacent sites- overspill contour plot to the design scheme
 - f. the upward light ratio;
 - g. the horizontal glare level at the nearby sensitive receptors both ground and first floor as appropriate.

The lighting shall be erected, directed and shielded so as to avoid nuisance to residential accommodation in close proximity. No other lighting equipment may then be used within the development other than that approved by the Local Planning Authority. The agreed measures shall be installed prior to occupation of the development and shall be thereafter retained and maintained for the duration of the approved use.

REASON: To safeguard the amenity and character of the area and to safeguard the living conditions of nearby residents and to accord with Policy 17 in the Central Lancashire Core Strategy

5. During the site preparation and construction of the development, no machinery, plant or powered tools shall be operated, no process carried out and no deliveries taken at or dispatched from the site outside the following times:

0800 hrs to 1800 hrs Monday to Friday

0900 hrs to 1300 hrs Saturday

No activities shall take place on Sundays, Bank or Public Holidays.

REASON: To safeguard the living conditions of nearby residents particularly with regard to the effects of noise in accordance with Policy 17 in the Central Lancashire Core Strategy

6. No deliveries of construction materials or removal of construction waste shall be undertaken outside of the hours:

09:00-17:00 Monday to Friday

No deliveries or removal of waste shall be carried out at weekends or nationally recognised Bank Holidays.

REASON: To safeguard the living conditions of nearby residents particularly with regard to the effects of noise in accordance with Policy 17 in the Central Lancashire Core Strategy.

7. The use of the Petrol Filling Station and Convenience store premises hereby approved shall be restricted to the hours of

0700-2200 Monday to Saturday,

0800-2200 Sundays and Bank Holidays

Restriction of Deliveries:

Deliveries restricted to between 7am and 9pm Monday to Saturday and 8am to 9pm Sundays and Bank Holidays.

REASON: In the interests of the amenities of adjoining residents and to accord with Policy 17 in the Central Lancashire Core Strategy

8. No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site. Each component shall be submitted to and approved, in writing, by the local planning authority:
- 1) A preliminary risk assessment which has identified:
 - o all previous uses
 - o potential contaminants associated with those uses
 - o a conceptual model of the site indicating sources, pathways and receptors
 - o potentially unacceptable risks arising from contamination at the site.
 - 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

9. No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan.
The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

10. The development hereby permitted shall not be commenced until such time as a scheme to;
1. Dispose of foul and surface water

2. Install oil and petrol separators

has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reasons: To prevent pollution of the water environment and to ensure no contaminated water from oil spills, fuel forecourts or goods vehicles is discharged to surface water or groundwater.

11. The development hereby permitted shall not be commenced until such time as a scheme to install underground tanks has been submitted to, and approved in writing by, the local planning authority.
The scheme shall include the full structural details of the installation, including details of: excavation, the tanks, tank surround, associated pipe work and monitoring system. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme, or any changes as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent pollution of the water environment and the underlying aquifer.

12. No development including demolition and site clearance shall take place until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority. The final report shall be submitted to the Local Planning Authority prior to the first use of the convenience store.

The programme of archaeological works should comprise the following:

- i) The creation of a record of the building to Historic England level 3; and
- ii) A formal watching brief during the stripping out phase.

This work should be carried out by an appropriately qualified and experienced professional archaeological contractor to the standards and guidance set out in Understanding Historic Buildings (Historic England 2016) and to the standards and guidance set out by the Chartered Institute for Archaeologists.

Reason: To ensure and safeguard the recording and inspection of matters of archaeological/historical importance associated with the building.

13. The development (excluding demolition) hereby permitted shall not be commenced until a scheme showing the provisions to be made for CCTV coverage, access control, and any other measures to reduce the risk of crime, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved scheme has been implemented. Thereafter the approved measures shall be permanently retained unless otherwise agreed in writing by the Local Planning Authority.

REASON: In order to provide a good standard of security to future occupants and visitors to the site and to reduce the risk of crime in accordance with Policy 17 and 26 of the Central Lancashire Core Strategy and Central Lancashire Design Guide Supplementary Planning Document (Adopted October 2012).

14. Foul and surface water shall be drained on separate systems.
Reason: To secure proper drainage and to manage the risk of flooding and pollution.

15. No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:
- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
 - (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
 - (iii) A timetable for its implementation.
- The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

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

16. Trees identified for retention should have protective fencing erected in accordance with BS 7837 2012. The fencing will consist of a scaffold framework in accordance with Figure 2 of BS 5837 - 2012 comprising a metal framework. Vertical tubes will be spaced at a maximum interval of 3m. Onto this, weldmesh panels shall be securely fixed with scaffold clamps. Weldmesh panels on rubber or concrete feet should not be used. The site manager or other suitably qualified appointed person will be responsible for inspecting the protective fencing daily; any damage to the fencing or breaches of the fenced area should be rectified immediately. The fencing will remain in place until completion of all site works and then only removed when all site traffic is removed from site.
- Reason: To protect trees from damage during construction in accordance with BS 5837 2012

17. Any access into the root protection shall be agreed in writing with the local authority. No machinery, tools or equipment should be stored within the Root Protection Area of any trees.
- Reason: To minimise damage to tree roots and prevent seepage of materials into the soil.

18. No works to trees or shrubs shall occur or demolition commence between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the LPA.

19. If the demolition hereby approved does not commence before 30th April 2023, the building will be reassessed for bat roosting potential and the finding supplied to and agreed in writing by the LPA. In the event of the survey confirming the presence of bats or barn owls details of measures, including timing, for the protection or relocation of the species shall be submitted to and agreed in writing by the Local Planning Authority and the agreed measures implemented.
- REASON: To ensure the protection of schedule species protected by the Wildlife and Countryside Act 1981 and so as to ensure work is carried out in accordance with Policy

22 in the Central Lancashire Core Strategy and Policy G16 in the South Ribble Local Plan 2012-2026

20. For the full period of demolition/construction, facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud and stones being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period. Reasons; to prevent stones and mud being carried onto the public highway to the detriment of road safety.
21. No part of the development hereby approved shall commence until a scheme for the construction of the site accesses and the off-site works of highway improvement including right turn provision on Preston New Road, Pavement widening to 2m, Amendments to 7.5t weight limit / traffic calming scheme including no left turn onto Branch Road) has been submitted to, and approved by, the Local Planning Authority in consultation with the Highway Authority as part of a section 278 agreement, under the Highways Act 1980.
Reasons: In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site and to enable all construction traffic to enter and leave the premises in a safe manner without causing a hazard to other road users.
22. No part of the development hereby approved shall be occupied or opened for trading until the approved scheme referred to in Condition 21 has been constructed and completed in accordance with the approved scheme details, without prior agreement from the Local Planning Authority.
Reasons: In order that the traffic generated by the new development does not exacerbate unsatisfactory highway conditions in advance of the first occupancy or trading.
23. The car parking and manoeuvring areas to be marked out in accordance with the approved plan (including entry and exit signs and alligator teeth), before the use of the premises hereby permitted becomes operative and permanently maintained thereafter.
Reasons: To allow for the effective use of the parking and manoeuvring areas.
24. No work shall be commenced until satisfactory details of the colour and texture of the facing and roofing materials to be used have been submitted to and approved by the Local Planning Authority.
REASON: To ensure the satisfactory detailed appearance of the development in accordance with Policy 17 in the Central Lancashire Core Strategy and Policy G17 in the South Ribble Local Plan 2012-2026

RELEVANT POLICY

NPPF National Planning Policy Framework

Central Lancashire Core Strategy

- 1 Locating Growth (Core Strategy Policy)**
- 10 Employment Premises and Sites (Core Strategy Policy)**
- 17 Design of New Buildings (Core Strategy Policy)**

- 22 Biodiversity and Geodiversity (Core Strategy Policy)**
- 26 Crime and Community Safety (Core Strategy Policy)**
- 28 Renewable and Low Carbon Energy Schemes (Core Strategy Policy)**

South Ribble Local Plan

- POLB1 Existing Built-Up Areas**
- POLG13 Trees, Woodlands and Development**
- POLG17 Design Criteria for New Development**
- POLH1 Protection of Health, Education and Other Community Services and Facilities**

Note:

1. United Utilities the applicant should contact United Utilities regarding a potential water supply or connection to public sewers. Additional information is available on our website <http://www.unitedutilities.com/builders-developers.aspx>

2. Environment Agency.

In discharging the conditions recommended above, the applicant will need to provide details of groundwater levels across the site. If underground fuel storage tanks are to be used on this site, then it would need to be demonstrated that a minimum 1 metre unsaturated zone will occur beneath the base of any underground fuel storage tanks and the highest expected natural water table. We will object to storage of hazardous substances below the water table on principal or secondary aquifers.

During the construction phase of the development any contaminated water must not be allowed to discharge to surface waters or groundwater. If infiltration methods are to be used for surface water disposal, the design of the surface water disposal system will need to incorporate sufficient treatment stages prior to discharge to the environment in line with CIRIA document C753.

The Environmental Permitting Regulations 2010 make it an offence to cause or knowingly permit a groundwater activity unless authorised by an Environmental Permit which we will issue. A groundwater activity includes any discharge that will result in the input of pollutants to groundwater.

The grant of planning permission will require the applicant to enter into an appropriate legal agreement (Section 278), with Lancashire County Council as Highway Authority prior to the start of any development. The applicant should be advised to contact the county council for further information by telephoning the Development Support Section on 0300 123 6780 or email developeras@lancashire.gov.uk, in the first instance to ascertain the details of such an agreement and the information to be provided, quoting the location, district and relevant planning application reference number.

Appendix 1 Committee Report 29 July 2021

Appendix 2 LCC Highways 14 October 2021

Appendix 3 SK Transport 1 December 2021.

Appendix 4 McDonalds Appeal Decision Notice

Appendix 5 The Windmill Appeal Decision Notice

Appendix 6 SWA 1 December 2021.
