



PLANNING COMMITTEE: 20<sup>th</sup> June 2024

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**Report of:** Assistant Director Planning and Regulatory Services

**Relevant Lead Member:** Cllr G Dowling

**Contact for further information:**

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**SUBJECT:** PLANNING APPLICATION REF: 2024/0348/FUL

**PROPOSAL:** Variation of condition 16 of planning permission 8/2001/0880 relating to time constraints.

**ADDRESS:** Tesco Superstore, Station Approach, Burscough

**REASON WHY APPLICATION IS AT PLANNING COMMITTEE:** Application has been called in by:

**Cllr Fowler for the following reasons:**

Impact on surrounding businesses and community. The impact on parking elsewhere in Burscough with implications of safety concerns

**Cllr Burnside for the following reasons:**

Impact the proposal will have on parking in and around Burscough, and the impact on local businesses. Parking in Burscough is already an issue and this will only further the problems seen which in turn has implications for safety around the village and will have a negative impact on local businesses.

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**Wards affected:** Burscough Bridge & Rufford Ward

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To advise Planning Committee of an application which seeks to vary the wording of condition 16 attached to planning decision ref: 2001/0880.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

- 2.1 That the planning application is **REFUSED** as the proposed development fails to comply with the requirements of the NPPF, policy GN3 in the West Lancashire

Local Plan 2012-27 and policies BPT1 and BPD1 of the Burscough Parish Neighbourhood Plan.

### **3.0 THE SITE**

- 3.1 The application site comprises an existing retail store and car park which is situated to the south of Station Approach in Burscough. There is a single vehicular access from Station Approach to the car park with deliveries being taken at the side of the store.

### **4.0 PROPOSAL**

- 4.1 The application relates to the variation of condition 16 of planning permission 2001/0880 which stated:

*Unless otherwise agreed in writing with the Local Planning Authority there shall be unrestricted access into the proposed shoppers car park.*

*Reason: To safeguard the safety and interests of the users of the highway and to ensure that the development complies with the provisions of Policy T.2 in the West Lancashire Local Plan.*

- 4.2 The applicant seeks to amend the condition so that it reads: *Unless otherwise agreed in writing with the Local Planning Authority parking at the 'proposed shoppers car park' shall be restricted to a maximum stay of up to 3 hours.*
- 4.3 The reason the applicant considers this to be necessary is that the shoppers car park is coming under pressure and being used by non-Tesco customers such as those who are using the train now that the Northern Rail car park has introduced a charging schedule. The application states that this is to the detriment of shoppers both to the Tesco store and wider town centre.

### **5.0 PREVIOUS RELEVANT DECISIONS**

- 5.1 2004/1211 - Reserved Matters - Erection of Class A1 retail store with new access, car parking, service yard and landscaping – Granted.
- 5.2 2001/0880 - Outline - Erection of food store, two retail shops, four terraced houses, six flats with associated garages, residents parking areas, together with access and highway works, car parking and service yards (including siting and means of access) – Granted.

### **6.0 OBSERVATION OF CONSULTEES**

- 6.1 WLBC Environmental Health Officer (13/05/24)

No objections in principle to the proposed application as submitted.

- 6.2 LCC Highways (15/05/24)

LCC have no objections to the variation of condition 16. I feel this should have a negligible impact on highway safety and capacity.

Whilst I understand concerns have been raised, I have taken the consultation comments into consideration, and the suggested three-hour maximum parking limit is acceptable to the highway authority and provides ample customer parking time.

### 6.3 LCC Highways (06/06/24)

Unfortunately, due to archiving we do not have copies of our original comments. In addition, our previous comments are not available on West Lancashire Borough Councils' (WLBC) website.

I understand the historic reason for condition 16 from an LCC point of view was to ensure there was no ticket barrier on the car park, which could impede highway safety given the volume of traffic on the adjacent road (Station Approach and in turn Liverpool Road North).

However, in this application and information you have provided, there is no mention of a ticket barrier being placed in situ. I can only comment on the information which has been validated and provided by WLBC. In addition, the use of ANPR for car parks does not necessarily require barriers. As with previous LCC comments I would have concerns and would oppose this car park having a barrier entry system, given the reason stated above.

I note from the covering letter provided by the applicant that, " In order to address this issue, and to ensure that there is sufficient parking for Tesco and other shoppers, it is proposed to introduce a maximum stay of up to three hours at the store. Parking during this time will remain free for all users, with fines levied for overstaying. This arrangement is considered sufficient for local residents to park at the Tesco store, undertake a shopping trip elsewhere within the town centre or even take a short rail journey. The proposed maximum stay will therefore reduce the attractiveness of the Tesco car park to longer stay commuters." As the car park will remain open, albeit for a maximum stay, there is no guidance nor evidence for me to object to the limited waiting time given the current information provided.

If an application is made regarding barriers for the site, I will then provide further comments against such a proposal.

## 7.0 **OTHER REPRESENTATIONS**

### 7.1 Burscough Parish Council

The original application submitted in January 2003 was granted permission with a considerable list of conditions.

Conditions imposed upon an application are there for a purpose and without the imposition of such condition's applications would fail, therefore for a condition to be modified or removed entirely the applicant has to prove that there has been a significant change in material circumstances.

The imposition of condition 16 on the original application was imposed because the planners realised the importance of making more car parking spaces available

within Burscough centre for the general use of residents going about their business and also local business owners because of the distinct lack of such free spaces and the increased housing and industrial development that was going to take place within the near future which would put further pressure on the amount of available parking.

This pressure has greatly increased within the last few years with the unprecedented house building and industrial development, particularly at Yew Tree Farm, with the consequential increase in traffic.

This clearly makes the reasoning behind the imposition of condition 16 on the car park, namely "to safeguard the safety and interest of the users of the highway and to ensure that the development complies with the provisions of Policy T2 in the Local Plan "even more compelling and should therefore remain in place unamended.

Furthermore, the applicant has not provided any data that supports their assertion that there are periods when the car park is full and Tesco customers cannot park. The evidence provided by large numbers of residents who have regularly shopped at Tesco over many years would suggest that there are always spaces available no matter what time of day they choose to shop.

With regard to the impact on Tesco car parking by the introduction of charges at the train station, one of our members has recorded the number of vehicles using Northern's facility over a five-day period. It averages out to nine which leaves eleven empty spaces in a total of twenty that are available. Even if all eleven were then parking at Tesco, which is doubtful as some will be using the council carpark opposite Tesco, the impact is minimal if non-existent.

The same member visited Tesco on Sunday 12th. May at approx.11am.This has recently been a very busy period in the area due to junior football at Burscough Sports Centre. Considering the additional pressure on parking there were still spaces available and therefore no restriction on being able to shop at Tesco's.

Any changes will impact businesses in the town centre and some will close due to the proposed changes

Any changes will impact on people using any of the Local businesses and this includes people who come from surrounding villages and towns.

The current system has worked well for over 20 years and the Tesco store did rejuvenate the town centre, any changes must be the right changes for the right reasons.

A further observation was that only approx. 50% of disabled spaces were occupied and that this is mainly the norm. There is an opportunity, therefore, should regulations allow, to release some for use by the general public!

Conclusion. Tesco have not demonstrated a need for a variation of condition no.16 and that the application is refused

7.2 More than 180 letters of representation have been received which can be summarised as follows:

- Objections to the proposed variation of condition wording
- Raise concerns regarding the adverse impacts the changes will have on the existing businesses and community facilities within the town centre. Burscough thrives because it has unrestricted free parking available.
- Consider that the change is not necessary as there is always adequate parking on site.
- Query if a formal survey has been undertaken in regard to this matter. No formal independent assessment or accurate figures have been submitted to support the application.
- Parking within Burscough is very limited and this car park is needed. Express concern about how the changes will affect parking on roads in the area.
- The conditions were imposed for good reason and should not be altered without justification. Consider that this has not been provided as part of the application.
- The condition was imposed due to the shortage of parking within Burscough. This has only worsened with the development of several large housing estates in recent years.
- The current system has worked well for over 20 years - cannot see a reason it should be changed now.
- Query the right of Tesco to issue parking fines.
- Express disappointment that Tesco as a large company which has been supported by the community would impose parking restrictions.
- Opposed to any limit on parking but 3 hours seems to be too short. Suggest that a longer period less than an 8 hour working day should be considered.

## **8.0 SUPPORTING INFORMATION**

8.1 The application has been supported by the following documents:

Covering Letter - Redline Planning

## **9.0 RELEVANT PLANNING POLICIES**

9.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2027 Development Plan Document provide the policy framework against which the development proposals will be assessed.

9.2 The site is located within the settlement boundary of the Key Service Centre of Burscough as defined within the West Lancashire Local Plan 2012-2027 DPD.

### **National Planning Policy Framework**

Promoting healthy and safe communities

Achieving well-designed places

Promoting sustainable transport

Ensuring the vitality of town centres

### **West Lancashire Local Plan Policies**

SP1 - A Sustainable Development Framework for West Lancashire

GN1 - Settlement Boundaries  
GN3 - Criteria for Sustainable Development  
IF1 - Maintaining Vibrant Town and Local Centres  
IF2 - Enhancing Sustainable Transport Choice

Supplementary Planning Document - Design Guide (January 2008)

Burscough Parish Neighbourhood Plan (July 2019)

## **10.0 OBSERVATIONS OF ASSISTANT DIRECTOR OF PLANNING AND REGULATORY SERVICES**

- 10.1 It is considered that the principle of the development approved under 2001/0880 is acceptable. That permission was determined on 29th January 2003 and, together with the subsequent reserved matters permission ref: 2004/1211, has been fully implemented. The assessment therefore will consider the impact of the proposed variation to condition 16 only.
- 10.2 Firstly, it is important to consider why the condition was imposed as part of decision ref: 2001/0880. It is noted that residents consider the condition was imposed to allow free parking at all times of the day/week for members of the public.
- 10.3 However, having reviewed the original permission, officers consider that the condition was imposed for a different reason. LCC Highways, as the local Highway Authority, was asked to comment on the original permission and did so on a number of occasions. Extracts of these comments are provided below:
- 05/04/02 - "concerned with a barrier type system that may affect free flow of traffic on the adjacent road"
- 23/05/02 - "An 'excessive' car park with controls by carrier or ticketing operated by the store would not be acceptable. A 'town car park' should have unrestricted access."
- 10.4 It should also be noted that the site prior to construction of the retail store and associated car park comprised disused mill buildings. A small area of disused land adjacent to the sport centre lay within the red line of the application site and was used for informal car parking.
- 10.5 The wording of the condition is clear that it relates to access into the car park and requires that this must be unrestricted and the reason for the condition is "*To safeguard the safety and interests of the users of the highway*". Having regard to the facts of the previous application, Officers consider that the condition was imposed in response to the Highway Officer concerns that a ticketed / barrier system would have the potential to adversely impact on the free flow of traffic on the adjacent road (Station Approach and in turn Liverpool Road North).
- 10.6 The condition was not imposed to sustain on-going free parking at all times for the general public to the supermarket car park. If this had been the case, then the reason would have reflected this requirement. In addition, it is noted that the officer recommendation report to Planning Committee at that time makes no reference to such a requirement. No other condition imposed on 2001/0880 sets out any

requirement for who can use the car park or for how long. That matter is up to the owner of the land.

- 10.7 However, whilst Officers do not consider there to be a restriction on the owner of the land implementing a time limit restriction on users of the car park, to alter the condition as proposed would potentially impact on safety and interests of users of the highway as a barrier could then be placed across the entrance to the site.
- 10.8 The Council must therefore now consider whether the proposed amendment to the condition would be acceptable in terms of the impact on the safety and interests of the users of the highway.
- 10.9 Policy GN3 of the West Lancashire Local Plan 2012-2027 DPD states that development should incorporate suitable and safe access and road layout design in line with latest standards. Policies BPT1 and BPD1 of the Burscough Parish Neighbourhood Plan are also of relevance and require development to create a safe and accessible environment and safe and effective movement of pedestrians and cyclists while ensuring that motor vehicles are accommodated without conflicting with other road users.
- 10.10 It is noted that LCC Highways have provided comments in respect of the proposal however it is clear that an assumption has been made by their current officer that the condition relates to times/length of parking allowed within the car park. This matter has been explained to the officer and further comment has been received from LCC Highways. The Highway Officer has confirmed that if a barrier was to be proposed at the entrance to the car park the Highway Authority would have concerns and would oppose this type of proposal. They have reiterated there is no objection to the car park being subject to a limited waiting time.
- 10.11 Since the application was approved and the retail store became operational there has been further development within the area including housing and a new stadium at Burscough FC to the west of the site. Whilst no survey information has been submitted as part of the application, nor has been commissioned by the Council, it is considered highly unlikely that the number of vehicles using Station Approach has substantially reduced since 2002.
- 10.12 If a barrier was erected at the entrance there would be harm to the safety of users of the highway, both pedestrians and vehicles, as identified by the Highway Authority in 2002. The objection to a barrier system has been confirmed to remain relevant by the Highway Authority. On that basis the alteration to the condition would not be acceptable.

## **11.0 CONCLUSION**

- 11.1 The principle of the proposed development is considered to be unacceptable as the alteration of the condition has the potential to result in harm to users of the highway. It is therefore considered that the proposal fails to meet the requirements of the National Planning Policy Framework and Guidance, Policy GN3 of the West Lancashire Local Plan 2012-2027 DPD and policies BPT1 and BPD1 of the Burscough Parish Neighbourhood Plan.

## **12.0 RECOMMENDATION**

12.1 The proposed development fails to comply with the NPPF and the relevant policies in the West Lancashire Local Plan 2012-27 and is recommended for refusal for the following reasons:

1. The proposed development conflicts with Policy GN3 in the West Lancashire Local Plan 2012-2027 DPD in that the development has the potential to result in harm to the safety and interests of the users of the highway by allowing a barrier to be erected at the entrance to the site.

## **13.0 SUSTAINABILITY IMPLICATIONS**

13.01 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

## **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

14.1 There are no significant financial or resource implications arising from this report.

## **15.0 RISK ASSESSMENT**

15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

## **16.0 HEALTH AND WELLBEING IMPLICATIONS**

16.1 There are no health and wellbeing implications arising from this report.

### **Background Documents**

In accordance with Section 100D of the Local Government Act 1972 the background papers used in the compilation of reports relating to planning applications are listed within the text of each report and are available for inspection in the Planning Division, except for such documents as contain exempt or confidential information defined in Schedule 12A of the Act.

### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

### **Human Rights**

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from Article 8 (the right to respect for private and family life, home



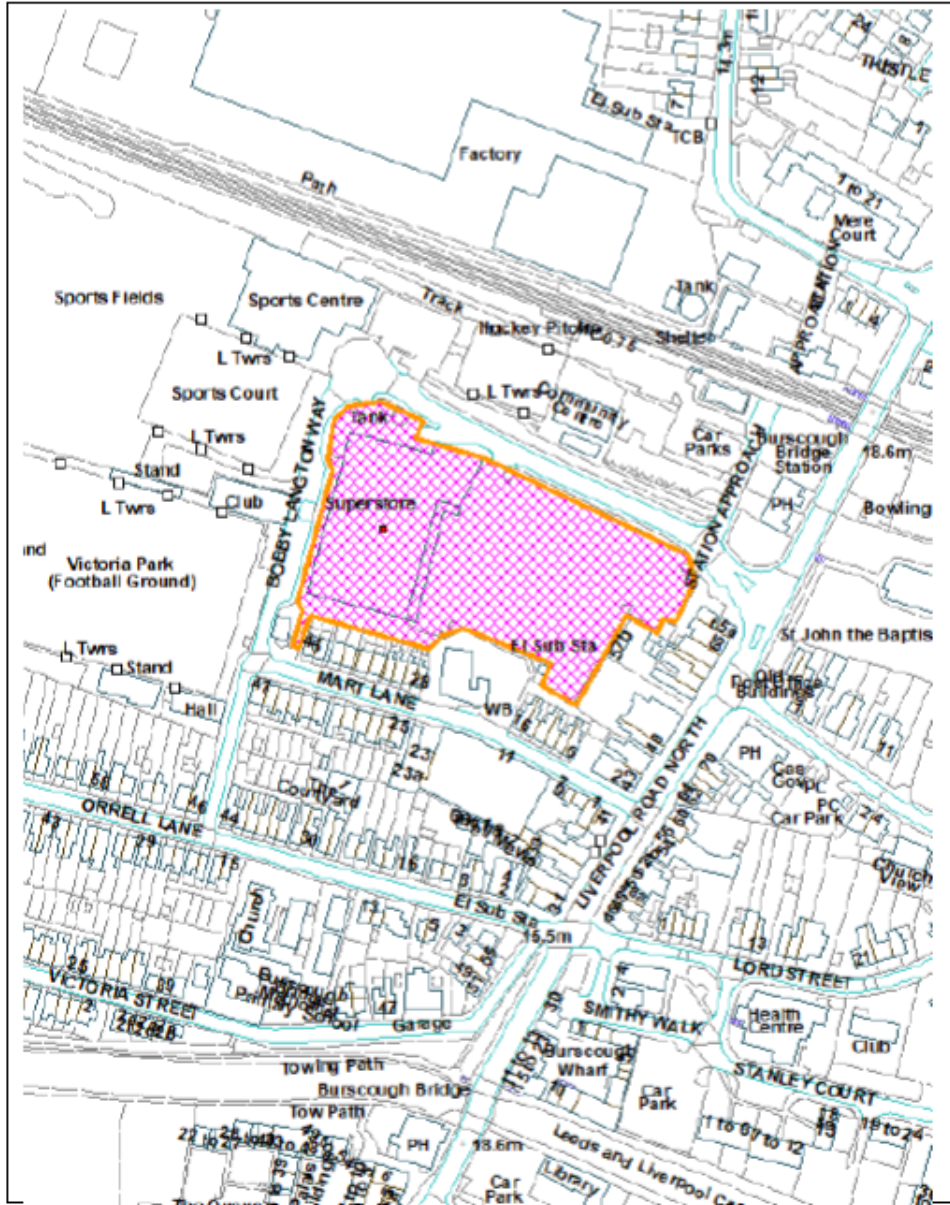
and correspondence) and Article 1 of Protocol 1 (the right of peaceful enjoyment of possessions and protection of property).

### **Appendices**

None.

2024/0348/FUL

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