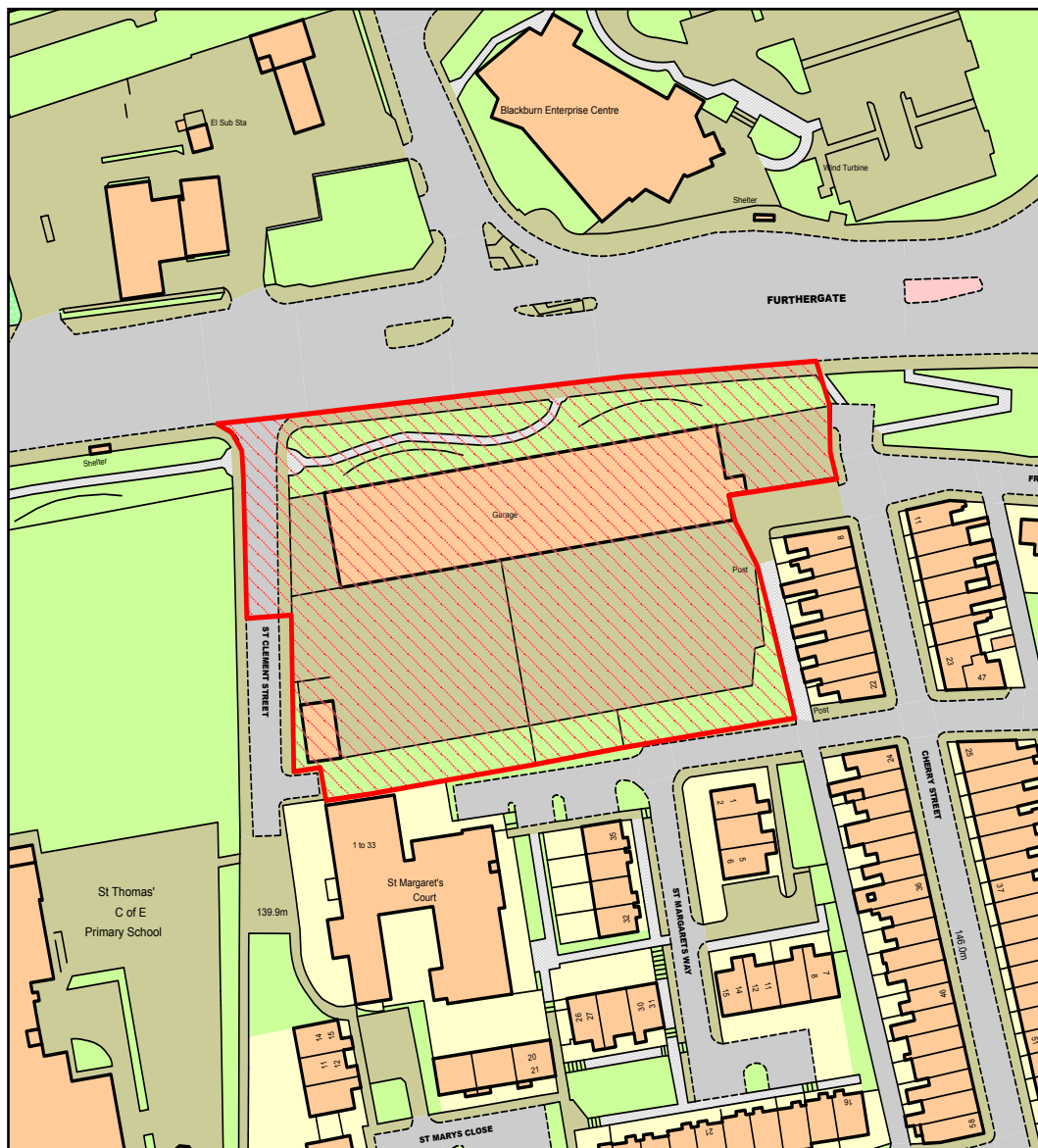


Proposed development: Minor Material Amendment for Variation of Condition No's 5, 11, 13, 20 and 23, pursuant to planning application 10/18/1094 "Demolition of existing building and the erection of a Lidl store (Use Class A1) with associated works including improved access, parking area and landscaping" - to amend site layout to provide for proposed removal of Cherry Street egress and boundary treatment amendments.

**Site address:
Furthergate Works
St Clement Street
Blackburn
BB1 1AB**

Applicant: Lidl Great Britain LTD

**Ward: Audley & Queens Park
Councillor: Yusuf Jan-Virmani
Councillor: Maryam Batan
Councillor: Salim Sidat**



1.0 SUMMARY OF RECOMMENDATION

1.1 REFUSE – For reasons set out in paragraph 4.1

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 Members are advised that the application is submitted under Section 73 of the Town and Country Planning Act 1990, as a Minor Material Amendment. It seeks to vary conditions attached to planning permission granted in May 2019, by the Planning and Highways Committee, for demolition of an existing building and erection of a Lidl store (Use Class A1) with associated access, parking and landscaping. The fundamental change proposed to the development previously approved *is the removal of a secondary point of egress on to Cherry Street, to the east of the site, by means of introducing additional boundary treatment in the form of an extended fence line.* As a proposed amendment to the approved site layout, conditions referencing the approved site layout drawing number in relation to boundary treatments, electric vehicle charging points and landscaping would also be varied accordingly. Full details of the proposed variations to the conditions are set out at paragraph 3.2.1.
- 2.2 The application follows dialogue with Ward Members and local residents. Since approval of the original application, local residents have expressed concern about the potential volume of traffic to be generated along Cherry Street and resultant impact on highway efficiency. This is notwithstanding the absence of local objection during the original application process. Some local residents, however, insist that they were not consulted on the proposed egress. Council records in this regard evidence that consultation letters were issued on 2nd April 2019 and site notice were displayed, following receipt of an amendment to the original submission to provide for the egress.
- 2.3 The key issue in the determination of the application is the impact of the closure of the proposed egress on highway safety and efficiency, taking into account the pressures on the junction at St. Clements Street / Furthergate; in particular the volume of traffic attempting to turn right out of St. Clements Street onto Furthergate. Rationale applied to the secondary egress was to limit such movement by allowing local traffic a safer and convenient alternative route. The detailed assessment applied to the original application is set out in the in the assessments section at paragraph 3.5.
- 2.4 Members are accordingly advised that justification for removal of the egress from the approved scheme does not exist, on account that no material change in circumstance, to those that applied at the time of the original assessment, is identified. Nor is an offer of alternative mitigation presented, to alleviate concern as to the volume of right turning traffic onto Furthergate.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 To reiterate the content of the original Committee Report, the site is described as follows:
- 3.1.2 Furthergate Works is currently occupied by Fix Auto. It is located within the Inner Urban Area of Blackburn, to the immediate south of Furthergate - a length of the A678 arterial road that leads into Blackburn Town Centre - and is flanked by Cherry Street to the east and St. Clement Street to the west. An industrial building exists along the northern boundary adjacent to Furthergate with an associated parking / servicing area to the rear. A length of landscaped verge adjacent to Furthergate is also included which runs the length of the site. The site is essentially rectangular, extending to circa 0.87 hectares, with the existing building occupying a floor area of circa 1,733 square metres. Land levels throughout the site are consistent.
- 3.1.3 The area is generally defined by its mixed use character. Land to the north of Furthergate hosts a range of commercial uses. Land to the immediate west hosts St Thomas C of E Primary School and associated playing fields. Land to the south and east hosts residential terraces and cul-de-sacs.
- 3.1.4 The length of the A678 that is Furthergate comprises, in part, 6 lane traffic including a dedicated bus lane and 'ghost island'. The road forms a dominant physical separation between the allocated employment area to the north and the residential area to the south.
- 3.1.5 Vehicular access to the site will be from the east of St. Clements Street, close to its junction with Furthergate. Pedestrian connectivity is provided by footways along Furthergate and from the neighbouring residential street network.
- 3.1.6 The site is well served by the public transport links that run along Furthergate, which forms part of the wider Pennine Reach network.
- 3.1.7 The site is unallocated, in accordance with the Blackburn with Darwen Borough Local Plan Part 2, Site Allocations and Development Management Policies.

3.2 Proposed Development

- 3.2.1 Following the aforementioned grant of planning permission, the current proposal is for a Minor Material Amendment for variation of condition nos. 5, 11, 13, 20 and 23 - pursuant to planning application 10/18/1094 – described as: "Demolition of existing building and the erection of a Lidl store (Use Class A1) with associated works including improved access, parking area and landscaping" - to amend site layout to provide for proposed removal of Cherry Street egress and boundary treatment amendments.

3.2.2 The following condition variations are proposed:

Condition no. 5 - original wording applied to 10/18/1094:

Prior to above ground works hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority that details the technical design of the junction improvements proposed at St. Clements Street / Furthergate and to the egress at Cherry Street. The scheme shall include a Cherry Street egress only restriction for customer/staff vehicles excluding deliveries. The approved scheme shall be implemented prior to commencement of the approved use and shall be retained in perpetuity thereafter.

REASON: To provide for the safe, efficient and convenient movement of all highway users, in accordance with Policy 10 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

Proposed variation:

Prior to above ground works hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority that details the technical design of the junction improvements proposed at St. Clements Street / Furthergate. The approved scheme shall be implemented prior to commencement of the approved use and shall be retained in perpetuity thereafter.

REASON: To provide for the safe, efficient and convenient movement of all highway users, in accordance with Policy 10 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

Condition no. 11 – original wording applied to 10/18/1094:

All boundary treatments hereby approved, including the 2.4m high' Acoustic Timber Fence', shall be implemented prior to commencement of the approved use; in accordance with drawing no. AD 120_REV A and shall be retained in perpetuity thereafter.

REASON: In order to ensure appropriate boundary treatment, in the interests of visual amenity and noise attenuation; in accordance with Policies 8 and 11 of the adopted Blackburn with Darwen Borough Local Plan.

Proposed variation:

All boundary treatments hereby approved, including the 2.4m high' Acoustic Timber Fence', shall be implemented prior to commencement of the approved use; in accordance with drawing no. AD 120_REV B and shall be retained in perpetuity thereafter.

REASON: In order to ensure appropriate boundary treatment, in the interests of visual amenity and noise attenuation; in accordance with Policies 8 and 11 of the adopted Blackburn with Darwen Borough Local Plan.

Condition no. 13 – original wording applied to 10/18/1094:

Prior to commencement of the use hereby approved, the fast charger station serving 2no. Rapid Electric Vehicle charging points shall be provided; in accordance with the position indicated on the approved site layout drawing numbered AD 121_REV A.

REASON: In the interests of air quality and protection of public health; in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Local Plan Part 2.

Proposed variation:

Prior to commencement of the use hereby approved, the fast charger station serving 2no. Rapid Electric Vehicle charging points shall be provided; in accordance with the position indicated on the approved site layout drawing numbered AD 110_REV B.

REASON: In the interests of air quality and protection of public health; in accordance with Policy 8 of the adopted Blackburn with Darwen Borough Local Plan Part 2.

Condition no. 20 – original wording applied to 10/18/1094:

Prior to commencement of the use of the hereby approved, all hard landscape treatments shall be implemented; in accordance with the 'Proposed Site Finishes' drawing numbered AD 121_REV A. Soft landscaping shall be implemented within the first available planting season after completion of the development; in accordance with the 'Landscape Details' drawing numbered R/2162/1G, which shall also include Cherry Blossom Tree species. Any trees and shrubs dying or becoming diseased, removed or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and/or shrubs.

REASON: To ensure an appropriate appearance to the site; in the interests of visual amenity and ecology, in accordance with Policy 9 and 11 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

Proposed variation:

Prior to commencement of the use of the hereby approved, all hard landscape treatments shall be implemented; in accordance with the 'Proposed Site Finishes' drawing numbered AD 121_REV B. Soft landscaping shall be implemented within the first available planting season after completion of the development; in accordance with the 'Landscape Details' drawing numbered R/2162/1G, which shall also include Cherry Blossom Tree species. Any trees and shrubs dying or becoming diseased, removed or being seriously damaged within five years of planting shall be replaced by trees and shrubs of similar size and species to those originally required to be planted during the first available planting season after the loss of the trees and/or shrubs.

REASON: To ensure an appropriate appearance to the site; in the interests of visual amenity and ecology, in accordance with Policy 9 and 11 of the adopted Blackburn with Darwen Borough Council Local Plan Part 2.

Condition no. 23 – original wording applied to 10/18/1094:

Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

AD 101, AD 102, AD 105, AD 110_REV A, AD 111_REV A, AD 112_REV A, AD 113_REV A, AD 120_REV A, AD 121 REV A and R/2162/1G.

Reason: For the avoidance of doubt and to clarify which plans are relevant to the consent.

Proposed variation:

Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings:

AD 101, AD 102, AD 105, AD 110_REV A, AD 111_REV A, AD 112_REV A, AD 113_REV A, AD 120_REV A, AD 121 REV A and R/2162/1G.

Reason: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3.3 Development Plan

3.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

3.3.2 The Development Plan comprises the Core Strategy and adopted Local Plan Part 2 – Site Allocations and Development Management Policies. In determining the current proposal, policies limited to highway accessibility and transportation consideration are of relevance:

3.3.3 Blackburn with Darwen Core Strategy (2011).

3.3.4 Blackburn with Darwen Local Plan Part 2 (2015):

- Policy 8: Development and People
- Policy 10: Accessibility and Transport
- Policy 11: Design

3.4 Other Material Planning Considerations

3.4.1 National Planning Policy Framework (The Framework) 2019:

The Framework sets out the government's aims and objectives against which planning policy and decision making should be considered. At its heart is a presumption in favour of sustainable development, which should proceed without delay, unless impacts which significantly and demonstrably outweigh the benefits of a proposal are identified. The following section of the Framework is considered relevant to assessment of the proposal:

- **Section 9: Promoting Sustainable Transport**
Transport issues should be considered at the earliest stages of plan making and development proposals, so that the potential impacts of development on transport networks can be addressed; opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated; opportunities to promote walking, cycling and public transport use are identified and pursued; the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

3.5 Assessment

3.5.1 Assessment of the application is limited to the minor material amendment proposed; ie. removal of the approved egress onto Cherry Street. All other matters have been appropriately assessed through the original application and are mutually agreed as acceptable.

3.5.2 Members are reminded of the highway assessment applied to the original application:

Accessibility and Transportation

Policy 10 requires that road safety and the safe, efficient and convenient movement of all highway users is not prejudiced and that appropriate provision is made for off street servicing and parking in accordance with the Council's adopted standards.

A Transport Statement (TS) submitted in support of the application has been reviewed by Capita Highways and the Council's highway consultee; supplementing detailed drawings which propose an alteration to the St. Clements Street / Furthergate junction in the form of widening the radii and realignment of the footway. These works are supported and would be delivered under a Section 278 agreement with the Local Highways Authority to be secured by applicant, in the form of an appropriately worded condition.

The primary access / egress at the site will be taken from the existing point east of St. Clements Street. Initial concern was expressed at the proximity to the St. Clements Street / Furthergate junction – measured at circa 30m – and the threat of queuing traffic onto Furthergate. The existing circumstances associated with the industrial use are, however, recognised as having the potential to generate a higher volume of heavy goods vehicular movement which is considered to balance out concern in this regard; on account that the proposed use will not present a significant additional threat to highway efficiency or safety.

Significant concern was also expressed at the frequency of traffic movements at the St. Clements Street / Furthergate junction, particularly with regard to right turn manoeuvres onto Furthergate. Consequently, utilisation of an existing egress contiguous with adopted highway, directly onto the northern most point of Cherry Street, has been negotiated with the applicant. This is rather than the alternative existing access / egress immediately adjacent to no. 8 Cherry Street, on account of this land being outside of the ownership of the applicant. Use will be limited to egress

only and will serve as an effective alternative to the St. Clements Street / Furthergate junction, particularly for local traffic; thereby alleviating right turn pressures onto Furthergate. Egress only limitation at the junction will be secured by condition.

Whilst the Cherry Street egress offers a beneficial supplementary point of egress, particularly for local traffic, the pressures on the St. Clement Street / Furthergate junction are acknowledged as a significant concern, as highlighted by the Council's Highways consultees. To this end, the pre-existing circumstances associated with the application site should be afforded proportionate weight. These circumstances involve a significant number of staff, customer and trade deliver vehicles entering and leaving the site throughout the course of a working day; although staff vehicular movement is accepted as mainly limited to standard opening and closing times. Moreover, Fix Auto's commitment to vacating the site may well result in increased vehicular movement than that experienced with either the current or proposed use. This is particularly true of HGV movements, due to the lawful, unrestricted B2 industrial use. Accordingly, whilst use of the St. Clement Street junction is recognised as presenting a degree of right turn risk, the degree of such risk associated with the proposal, in this context, is considered, on balance, to be acceptable.

Convenient pedestrian access to the site is offered from both Furthergate and St. Clements Street.

Appropriate provision and layout of 117 car parking spaces will be provided on site, of which 6 are disabled and 8 are parent child. In addition, 2 Powered Two Wheel spaces and 6 cycle stands will be provided, as will a taxi pick up and drop off point. Parking provision is considered acceptable when assessed against the Council's adopted parking standards; reinforced by the absence of objection in this regard from the highways consultee. It should also be recognised that the site benefits from excellent links to public transport which operate frequently along the A678.

The overall internal site layout appropriately caters for HGV deliveries; as demonstrated by a Swept Path Analysis and includes safe crossing points for customers and staff.

A Demolition Method Statement supports the application which has been reviewed as an acceptable methodology in addressing traffic management during demolition works. Although a similar Construction Method Statement has not been submitted to address the construction phase of the development, this can be secured by condition.

A Travel Plan has also been submitted and reviewed. The plan is considered to appropriately address the fundamental principles of sustainable travel. Its delivery will be secured by condition.

Third party objection has been received expressing concern towards the following matters:

Highway impact as a result of traffic generation from the nearby St Thomas C of E Primary School and its effect on adequacy of customer parking on the proposed car park serving the new store; given that Lidl intend to allow free parking for school traffic during drop off and pick up times. The applicants offer is welcomed, as it will alleviate congestion currently experienced on St. Clements Street, on account that off-street parking for school traffic is not currently available within the Fix Auto site. It should be recognised that Lidl are not obliged to offer availability of their car park and that the volume of school traffic is a pre-existing circumstance that the Council cannot arbitrarily impose responsibility on the applicant to cater for. A more detailed assessment of existing school traffic and car park accumulation (of Lidl and school demand), in this context, is not, therefore, justified. The applicant has confirmed that, whilst school traffic will be allowed to park on the store car park on an informal basis, the situation will be internally monitored to establish whether school traffic is having a

negative effect on customer parking capacity. If so, right is reserved to restrict parking to customers only.

The absence of a 'swept path analysis' to demonstrate affective manoeuvrability. As aforementioned, this has been provided. It details all movements in and out of St Clements Street for a maximum legal articulated HGV, and is considered acceptable by the Council's highways consultee.

That traffic data was not collected during a 'neutral' period. Traffic surveys were undertaken on Thursday 18th October 2018 and Saturday 20th October 2018. As stated in WebTAG Unit M1.2 'Data Sources and Surveys' paragraph 3.3.6; *'Surveys should be carried out during a neutral or representative month, avoiding main and local holiday periods, local school holidays and half terms, and other abnormal traffic periods. National experience is that the following Monday to Thursdays can be neutral:*

- *Late March and April – excluding the weeks before and after Easter;*
- *May – excluding the Thursday before and all of the week of each Bank Holiday;*
- *June;*
- *September – excluding school holidays or return to school weeks;*
- *all of October; and*
- *all of November – provided adequate lighting is available.*

This requirement often dictates the timescale of the appraisal. Data processing may also add substantially to the study timescale”.

Accordingly, the Traffic Surveys have demonstrably been conducted during a neutral period. Moreover, Capita Highways audit of the TS concluded that the dates and times of the surveys were considered appropriate for the purposes of assessing the impact of the proposed development on the local highway network.

That inconsistencies exist with the submitted flow diagrams. No inconsistencies have been reported by Capita Highways in their TA audit. It is considered that the only inconsistency that could be cited is the fact the a reduction in number of right turners out of St. Clements Street has not been sought, as a result of opening the egress onto Cherry Street. This, however, ensures that the St. Clement Street assessments are as robust as possible.

Accordingly, on balance, the proposal is considered to be acceptable from a highway safety and efficiency perspective; subject to implementation of the aforementioned measures, to be secured by condition.

3.5.3 The proposed amendment is supplemented by a Technical Note produced by the applicants Transport Consultee (September 2019). The note acknowledges local resident concern about the potential for the egress to become a 'rat run' for drivers and asserts that Cherry Street is not capable of accommodating a significant uplift in traffic, taking into account the established position of on-street parking on both sides of the road.

3.5.4 The note re-iterates that the original Transport Assessment did not take the Cherry Street egress into account in the assessment of future traffic flow conditions on the local highway network. It states that Lidl customer and delivery traffic would be routed via the junction of St Clements Street with Furthergate, thereby demonstrating the robustness of those assessments and the adequacy of the junction improvement proposals, which include carriageway widening to ensure left turners at the junction out onto Furthergate will benefit from a separate lane from the right turners at the give-way line.

The original assessment was also subject to a Stage 1 Road Safety Audit which did not result in any major issue being raised. It is contested that such evidence demonstrates that there will be no detriment to either highway safety or the free-flow of traffic created by the proposals that relied upon the exclusive use of the St Clements Street junction onto Furthergate, and that, therefore, the proposed amendment should be supported.

- 3.5.5 In response, the Council's highway's consultee has reiterated strong concern expressed at the time of the original application, in that support for the development, based on a single point of egress from the site via the St Clements Street / Furthergate junction would not be offered, on account of the volume of hazardous right turn manoeuvres across an oncoming three lane carriageway, in close proximity to a busy three arm junction. Moreover, a further opinion has been sought from the Council's Traffic Engineers as to the merits of the proposed removal of the egress and the possibility of mitigation by way of alterations to the signalled junction on Furthergate. In this regard, it is considered that an addition / alteration to the signals will not be possible without causing significant congestion along Furthergate and compromising drivers concentration levels due to what would be a complex series of signalled instructions and vehicular movements; thereby creating the conditions to create increased risk of collisions. Moreover, the presence of waiting buses within the bus lane would exacerbate the situation.
- 3.5.6 The concession from the application in offering the secondary Cherry Street egress was seen as a suitable compromise to ensure delivery of the development, whilst mitigating highway safety concerns around turning right onto Furthergate, and having regard to the 'fall-back' position of an unrestricted B2 industrial use in the event of the current occupiers of the site (Fix-Auto) vacating and the Lidl development failing to materialise; as aforementioned in the original assessment.
- 3.5.7 Contrary to the applicants Transport Assessment, the proposed amendment is considered to present a circumstance that could result in an excessive and inefficient use of the St Clements Street / Furthergate junction when turning right onto Furthergate; thereby 'tipping the balance' towards an unacceptable risk to highway safety. Moreover, no additional mitigation is offered to alleviate concern at the junction nor is any material change in circumstances identified since the original assessment. Consequently, on account of unacceptable highway impact, support for the application is not considered to be justified; when considered against Policy 10 of the Development Plan and The Framework's directive at paragraph 109, which states:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 3.5.8 In determining the original application and in assessment of the proposed amendment, consideration has been applied as to the impact of the egress on traffic flow and general highway efficiency / safety along Cherry Street.

Existing traffic flow during mid-week, off-peak hours is noted by Officers to be less than moderate. As an egress only onto Cherry Street, additional traffic movement will undoubtedly be experienced but such movement is anticipated to be low and intermittent, limited to local traffic familiar with the route. Such movement is unlikely to present circumstances that would be detrimental to highway efficiency or safety along Cherry Street or the wider higher network to the south of the site.

3.5.9 Members are advised that the rationale applied to the Cherry Street egress was that it will cater for local traffic travelling to the south of the site which would create an acceptable degree of balance between use of egress points from the site. Moreover, it should be emphasised that its introduction was fundamental in ensuring highway support for the development.

3.5.10 For these reasons, it is considered that the proposed amendment should be refused.

4.0 RECOMMENDATION

4.1 **Delegated authority is given to the Director for Growth and Development to refuse planning permission for the following reason:**

- The proposal will be detrimental to the efficiency and safety of highway users, by virtue of generating excessive right turn manoeuvres onto Furthergate from the St Clements Street with Furthergate junction; contrary to Policy 10 of the Local Plan Part 2 and in accordance with Section 109, paragraph 109 of The Framework.

5.0 PLANNING HISTORY

- 10/18/1064: Prior notification of proposed demolition of existing garage Buildings: Prior Approval not required - delegated decision, on 5th December 2018.
- 10/18/1094: Demolition of existing building and the erection of a Lidl store (Use Class A1) with associated works including improved access, parking area and landscaping: Approved - Planning and Highways Committee, on 30th May 2019.

6.0 CONSULTATIONS:

6.1 Highways

Reiteration of comments applied to the original application (10/18/1094): Significant concern expressed as to the volume of users at the St Clements Street with Furthergate junction, with regard to vehicles turning right onto Furthergate, across a 3 lane carriageway – circumstances that would present an increased risk of vehicle collision. Removal of the Cherry Street egress is

not, therefore, supported. Moreover, volumes of traffic generated along Cherry Street are anticipated to be low and limited to local traffic.

6.2 Neighbours

Neighbour notification letters were sent to 180 properties within the locality on the 10th October 2019. In addition, site notices were posted, and a press notice was advertised in the Lancashire Evening Telegraph on the 31st October 2019. As a result of this consultation process no representations have been received.

7.0 CONTACT OFFICER: Nick Blackledge – Senior Planner, Development Management.

8.0 DATE PREPARED: 5th December 2019