

## PLANNING APPLICATIONS COMMITTEE 16<sup>th</sup> July 2020

### Item No:

<u>UPRN</u>	<u>APPLICATION NO.</u>	<u>DATE VALID</u>
	19/P2578	04/07/2020
<b>Address/Site</b>	247 Burlington Road, New Malden, KT3 4NF	
<b>(Ward)</b>	West Barnes	
<b>Proposal:</b>	DEMOLITION OF BUILDING AND FORMATION OF TEMPORARY ROAD FOR THE TESCO CAR PARK (2 YEAR PERIOD), PROVIDING PEDESTRIAN AND BICYCLE ACCESS PLUS VEHICULAR EGRESS, WITH ASSOCIATED WORKS INCLUDING THE RELOCATION OF BUS STOP	
<b>Drawing Nos:</b>	396389-MMD-BA04-XX-DR-D-0002 Rev P5, D 9000 Rev P1 and D 9001 P1.	
<b>Contact Officer:</b>	Tim Lipscomb (0208 545 3496)	

---

### RECOMMENDATION

**Grant Permission subject to conditions and s.106 legal agreement.**

---

### CHECKLIST INFORMATION

- Heads of Agreement: Yes, use of road to cease on implementation of mixed-use commercial/residential scheme to land to the north and reinstatement of kerb line and road markings along Burlington Road and the applicant to bear all reasonable costs of the Council for all work in drafting S106 and monitoring the obligations.
- Is a screening opinion required: No
- Is an Environmental Statement required: No
- Has an Environmental Statement been submitted: No
- Press notice: No
- Site notice: Yes
- Number of neighbours consulted: 154
- External consultations: Yes
- Conservation area: No
- Listed building: No
- Tree protection orders: No
- Controlled Parking Zone: No (but parking bays on Burlington Road in the vicinity of the site are Pay & Display only.

## 1. **INTRODUCTION**

- 1.1 This application is being brought to the Planning Applications Committee for determination due to the nature and scale of the development and the number of associated objection letters from members of the public.

## 2. **SITE AND SURROUNDINGS**

- 2.1 The site comprises an area of 0.33 hectares and comprises a small portion of the southernmost part of the Tesco Extra Supermarket at 265 Burlington Road, the existing building at 247 Burlington Road and a section of highway to the immediate south of 247 Burlington Road, measuring approximately 28m in length.
- 2.2 247 Burlington Road comprises a two-storey, red brick building, which is vacant but was previously used as a small scale factory. The immediate neighbouring land uses to the site on Burlington Road are a car wash business (No.249) and a vacant former industrial building (No.245).
- 2.3 There is a bus stop on Burlington Road, within the defined red line site area. A traffic light controlled pedestrian crossing is located to the immediate east of the site, on Burlington Road.
- 2.4 The site is within Flood Zone 2, with a small portion towards the northern part of the site being Flood Zone 3.
- 2.5 The site has a PTAL of 3.
- 2.6 The site is within a Locally Significant Industrial Site.
- 2.7 The site lies adjacent to an Archaeological Priority Zone (to the north).

## 3. **PROPOSAL**

- 3.1 Planning permission is sought for the demolition of the existing vacant factory building and the provision of a temporary access road to provide an egress for automobiles using the Tesco car park should the planning application for the redevelopment of the Tesco Extra car park for a mixed use scheme with residential flats above (application ref. 19/P2387), be approved. The vehicular exit onto Burlington Road that is currently used by Tesco customers would not be available throughout the construction process and the proposal would provide a temporary alternative vehicular egress.
- 3.2 It is of note that application 19/P2387 is currently pending with no formal determination having taken place as of yet. Although it has been recommended for refusal by the Planning Applications Committee and is currently being reviewed by the Greater London Authority under the Stage 2 referral process. That application is also the subject of an appeal against non-determination, with a Public Inquiry due to take place in late 2020.
- 3.3 The access road would provide a route between the Tesco Extra car park and Burlington Road for cars to exit the Tesco car park onto Burlington Road. The road is not to facilitate the access or egress of construction or site vehicles. The road would allow for one way vehicular traffic only but would facilitate both access and egress for cycles and pedestrians.

- 3.4 The application seeks permission for a temporary period of two years. Following that period the kerb line would be reinstated, and the shortened bus cage would be reinstated.
- 3.5 The access road would measure in 72m length, with a width of 3.7m. The road would also have a pavement to the eastern side, measuring 3m in width. To the eastern side of the road would be a 2m wide contraflow cycle lane.
- 3.6 The proposed road would have tactile paving to either side at the junction with Burlington Road, with signage proposed to show the cycle lane and no entry signs for cars.
- 3.7 A 2.4m by 48m visibility splay would be provided from the proposed access onto Burlington Road, to the west.
- 3.8 The scheme would necessitate the reduction in the length of the marked bay for the bus stop from 43m to 21m. The existing bus stop, flag and shelter would remain as existing.
- 3.9 The application is accompanied by the following supporting documents:
- Design and Access Statement (1st July 2019)
  - Flood Risk Assessment (19th March 2019)
  - Method Statement: Work Activity: Demolition of Former Warehouse (2019)
  - Preliminary risk assessment (March 2019)
  - Revised Road Safety Audit Stage 1 (16th June 2020)
  - Road Safety Audit Response Report to the Stage 1 Audit (19th June 2020)

#### 4. PLANNING HISTORY

4.1 15/P3357 - ERECTION OF TWO STOREY RESTAURANT WITH DRIVE-THRU, CAR PARKING, LANDSCAPING, 2 X CUSTOMER ORDER DISPLAYS WITH ASSOCIATED CANOPIES AND 1 GOAL POST HEIGHT RESTRICTOR. Refuse Permission 17-08-2016.

1. The proposed change of use to a use within Class A5 would result in unacceptable harm to the amenity of local residents through noise, disturbance, litter, fumes and pollution and would result in an over concentration of hot food takeaways that would detract from the ability to adopt healthy lifestyles, contrary to policies DM R5, DM EP2 and DM EP4 of the Merton Sites and Policies Plan 2014, policy 3.2 of the London Plan 2015 and the Merton Health and Wellbeing Strategy 2015-2018.

2. The design, nature and siting of the proposed drive thru restaurant in relation to the surrounding street hierarchy is considered likely to have an adverse effect on pedestrian and cycle movements, the safety and convenience of local residents and the safety and congestion of the local road network contrary to policies 6.1 & 6.3 in the London Plan 2015, policy CS.20 in in the LDF Core Strategy 2011 and policies DM T2 and DM T5 of the Adopted Merton Sites and Policies Plan 2014.

4.2 Associated applications:

4.3 19/P2387 – DEMOLITION OF THE EXISTING BUILDINGS AND ERECTION OF TWO BLOCKS OF DEVELOPMENT RANGING IN HEIGHT BETWEEN SEVEN AND 15 STOREYS AND COMPRISING 456 NEW HOMES, OF WHICH 114 WILL BE ONE BEDS, 290 WILL BE TWO BEDS AND 52 WILL BE THREE BEDS. 499SQM OF B1(A) OFFICE SPACE WILL BE ACCOMMODATED AT GROUND FLOOR LEVEL ALONG WITH 220 CAR PARKING SPACES, 830 CYCLE PARKING SPACES, A REALIGNED JUNCTION ONTO BURLINGTON ROAD, HARD AND SOFT LANDSCAPING AND ASSOCIATED RESIDENTIAL FACILITIES. THE APPLICATION ALSO INCLUDES MINOR CHANGES TO THE LAYOUT AND CONFIGURATION OF THE RETAINED TESCO CAR PARK . Planning Applications Committee Resolution to refuse February 2020. Appeal Pending.

4.4 19/P3085 - PARTIAL DEMOLITION OF B1 OFFICE BUILDING AND CHANGE OF USE OF PART OF OFFICE BUILDING CAR PARK TO FACILITATE THE RECONFIGURATION OF SUPERMARKET CAR PARK TO PROVIDE A TOTAL OF 684 CAR PARKING SPACES (A LOSS OF 19 CAR PARKING SPACES), TO PROVIDE TROLLEY PARKING SHELTERS, CHANGES TO WHITE LINE MARKING AND PROVISION OF A NEW SERVICING AREA AND ALTERATIONS TO OFFICE CAR PARK WITH A LOSS OF 29 CAR PARKING SPACES. THE ALTERATIONS TO THE SUPERMARKET CAR PARK LAYOUT AND ASSOCIATED WORKS HAVE BEEN SUBMITTED IN CONNECTION WITH THE CONCURRENT PLANNING APPLICATION 19/P2387 FOR THE ERECTION OF A MIXED USE DEVELOPMENT COMPRISING 456 FLATS AND 499 SQ.M OF B1 FLOOR SPACE. Pending decision

## 5. CONSULTATION

5.1 Site notice posted, neighbouring properties notified. 31 representations have been received, raising objection on the following grounds:

N.B. The majority of representations have focused on concerns relating to the wider redevelopment of the adjacent Tesco site under application ref. 19/P2387. However, the concerns relating specifically to this development are:

- Concerns cited in relation to scheme 19/P2387 for a residential and mixed use redevelopment of the adjacent Tesco car park.
- Such a location for a temporary road is totally unsuitable, to suggest that vehicular egress is being requested is unrealistic given that Cavendish Avenue is directly opposite.
- Increased traffic congestion.
- An additional access road is an unnecessary luxury.
- Whilst we note that a S106 Agreement will be entered into confirming that this will only be a temporary arrangement we remain concerned that it will establish a precedent and may lead to the formation of a permanent two way link that will only add to the existing congestion on Burlington Road.
- No further development should take place on the Tesco site until the Borough Council implements the extension of the filter lane on Burlington Road as far as the roundabout at Claremont Avenue.
- The access road will be used as an access for trucks etc to the flats that are to be built.

- Big articulated trucks entering this site either driving or reversing in will be a major hazard.
- Request for a guarantee that the access would not be used for site vehicles.
- Concerns regarding safety of children walking to school.
- Notification letters should have been sent to all people in the West Barnes Area including the people the other side of West Barnes Crossing should also be involved.
- This site would be better used for a green space with trees planted not as a building access and also the site of the flats should also be the same.
- Concern regarding loss of trees.
- No Specific measures have been indicated to comply with Bat requirements. Can this sentence be queried please, bats are a protected species so ever care should be made to ensure there are none roosting in the building – especially as there are currently a number of trees that line the Pyl Brook very close by adjacent to Tesco's.
- The documentation seems to incorrect in particular the Preliminary risk assessment plan, in paragraph 2.1 refers to the land to the east as being commercial and a temple, this is incorrect as if they had been to site and checked the planning history they would see that the whole of 257a, b, c, d have been turned into residential units as have many of the other building along Burlington Road.
- Note – no objection to demolition of the existing building or the provision for cyclists and pedestrians.

## 5.2 **Internal consultees**

### 5.3 LBM Highways:

INF 8, INF 9 and INF 12

H10 and H13 (construction Logistics plan to adhere to TFL construction Logistics Plan Guidance)

All above apply to this site

Detailed construction and specification plans of works on the public highway need to be approved by the Highways section, who must be contacted prior to any site works commencing

### 5.4 LBM Transport Planning:

Recommendation: Raise no objection subject to:

- Condition requiring to deal with all problems identified by TMS Road Safety Audit.
- Approval in writing from TfL.
- Demolition/Construction Logistic Plan (including a Construction Management plan in accordance with TfL guidance) should be submitted to LPA for approval before commencement of work.
- Amendments to highway and reinstatement of dropped kerbs under Sec. 278 agreement (applicant to bear all costs).

Informative:

Highways must be contacted prior to any works commencing on site to agree relevant licences, and access arrangements – no vehicles are allowed to cross the public highway without agreement from the highways section.

The applicant should contact David Furby of Council's Highway Team on: 0208 545 3829 prior to any work starting to arrange for this works to be done.

5.5 LBM Environmental Health Officer:

From the perspective of contaminated-land we recommend two conditions:

- A deskstudy, then an investigation shall be undertaken to consider the potential for contaminated-land, and if necessary, a detailed remediation scheme to bring the site to a suitable state for the intended use by removing unacceptable risks to health and the built environment, and submitted to the approval of the LPA. Reason: To protect the health of future users of the site in accordance with policy 5.21 of the London Plan 2015 and policy DM EP4 of Merton's sites and policies plan 2014.
- The approached remediation shall be completed prior to development. And a verification report, demonstrating the then effectiveness of the remediation, subject to the approval of the LPA. Reason: To protect the health of future users of the site in accordance with policy 5.21 of the London Plan 2015 and policy DM EP4 of Merton's sites and policies plan 2014.

5.6 LBM Flood Risk Officer:

No objection subject to conditions and informative to ensure that surface water drainage issues are adequately considered and implemented.

5.7 External consultees:

5.8 Environment Agency:

The 'Preliminary Risk Assessment' (PRA) by RSK (reference 1920215 R02 (00) dated 25th March 2019) indicates the potential for historic ground contamination to be present and has recommended an intrusive investigation to assess this. Planning permission should only be granted to the proposed development as submitted if the following planning conditions are imposed as set out below.

- Scheme to deal with the risks associated with contamination of the site
- Remediation strategy detailing how unsuspected contamination shall be dealt with.
- Remediation Verification report
- No drainage systems for the infiltration of surface water drainage into the ground are permitted
- Piling or any other foundation designs using penetrative methods shall not be permitted

5.9 Transport for London:

TfL has the following comments:

It is understood that the above application relates to the demolition of an existing building and development of a temporary vehicle egress onto Burlington road. It is also understood that Merton Council are the highway authority for the B282, Burlington Road.

The site benefits from a Public Transport Access Level (PTAL) of 3 on a scale ranging from 0 to 6b, where 6b represents the greatest level of access to public transport. A bus stop is located adjacent to the site providing access to three bus routes along with another bus stop a 5 minute walk (Shannon Corner) providing access to another three bus routes.

The proposed development will require the relocation of the bus stop and shortening of the bus cage in front of the proposed development site. TfL have been consulted on this and agreed plans with the applicant. However, prior to any works to the bus stop or cage TfL requests an onsite meeting, with the developer, TfL Asset Operations and London Borough of Merton.

TfL welcomes the inclusion of wide pavements for pedestrian access, however no provision is made for pedestrians beyond the development site which is a concern for pedestrian safety / accessibility and runs counter to TfL's Vision Zero goals.

Subject to the above conditions being met, TfL has no objections to the above proposal.

## 6. POLICY CONTEXT

### NPPF 2019:

- 2. Achieving sustainable development
- 8. Promoting safe and healthy communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change

### London Plan 2016:

- 4.4 Managing industrial land and premises
- 5.12 Flood risk management
- 5.13 Sustainable drainage
- 5.21 Contaminated land
- 6.3 Assessing effects of development on transport capacity
- 6.7 Better streets and surface transport
- 6.9 Cycling
- 6.10 Walking
- 6.12 Road network capacity
- 6.13 Parking
- 7.2 An Inclusive environment
- 7.3 Designing out crime
- 7.4 Local character
- 7.5 Public Realm
- 7.8 Heritage assets and archaeology
- 7.14 Improving air quality
- 7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
- 8.2 Planning obligations

Merton adopted Core Strategy (July 2011):

CS4	Raynes Park
CS11	Infrastructure
CS12	Economic Development
CS14	Design
CS15	Flood Risk Management
CS18	Active Transport
CS19	Public Transport
CS20	Parking, Servicing and Delivery

Merton adopted Sites and Policies document (July 2014):

DM E1	Employment areas in Merton
DM E3	Protection of scattered employment sites
DM D1	Urban design and the public realm
DM D2	Design considerations in all developments
DM D4	Managing heritage assets
DM EP2	Reducing and mitigating noise
DM EP4	Pollutants
DM F1	Support for flood risk management
DM F2	Sustainable urban drainage systems (SuDS) and; Wastewater and Water Infrastructure
DM T1	Support for sustainable transport and active travel
DM T2	Transport impacts of development
DM T3	Car parking and servicing standards
DM T4	Transport infrastructure
DM T5	Access to the Road Network

## 7. PLANNING CONSIDERATIONS

### 7.1 Principle of development

7.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that when determining a planning application, regard is to be had to the development plan, and the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise.

7.1.2 This application is intrinsically linked to application 19/P2387, which is referenced above in the section titled 'Relevant Planning History'. The current application seeks to provide a temporary access road for construction traffic relating to the development proposed under 19/P2387. Application 19/P2387 has not been determined and remains pending at this time (currently the subject of an appeal) and therefore, if permission is granted for this access road, it would be subject to a limitation that it can only be implemented if application 19/P2387 is approved.

7.1.3 The main considerations of the proposal are the principle of the loss of employment floor space, the impact that the proposed development would have on the highway safety and capacity, the visual impact of the proposal, the impact that it would have on neighbouring amenity, flooding, air quality, potentially contaminated land and archaeology.

### 7.2 Prematurity/ Relationship with the Development Proposals for the Neighbouring Site

7.2.1 As noted above, this application is to facilitate the emerging development proposals for the neighbouring site to provide a mixed use, residential led development. This application was submitted ahead of the application for



the adjoining site to ensure that construction works can commence to provide the temporary road.

7.2.2 To avoid potential concerns about prematurity, should permission not be granted for the adjoining site, an obligation in a s106 agreement that prevents use of the temporary access road until implementation of any planning permission for the adjoining site is recommended.

### 7.3 Principle of the loss of employment floor space

7.3.1 Part a) of Policy DM E1, Employment Areas in Merton, requires the retention of existing employment land and floor space.

7.3.2 The site falls within a Locally Significant Industrial Area. As part of LBM's Local Plan review, it is proposed that the site will be bought forward for mixed use development - Site RP2 with the Council's Proposed Site Allocation uses being Retail (A1 Use Class), Research and Development (B1 [b] Use Class) and light industrial (B1 [c] Use Class) with residential on upper floors.

7.3.3 The proposed road would be temporary and for a maximum of two years during construction of the neighbouring site, should planning permission be granted.

7.3.4 A S106 obligation is recommended as part of this application that commits to cessation of use of the temporary road, as soon as the new road is made available for public use within the adjoining site.

7.3.5 Following the cessation of use of the temporary road, there is no reason why the site could not be made available for redevelopment, consistent with the emerging policy allocation for the site.

7.3.6 Taking into account the temporary nature of the proposed access road, officer do not consider the proposal to be in conflict with the development plan in relation to the loss of employment floor space.

7.3.7 The proposal is considered to comply with the thrust and intention of Policy DM E1 and no objection is raised in this regard, subject to a legal agreement to ensure that the use of the road is temporary.

### 7.4 Highway considerations

7.4.1 London Plan policies 6.3 and 6.12, CS policies CS20 and CS18 and SPP policy DM T2 seek to reduce congestion on road networks, reduce conflict between walking and cycling, and other modes of transport, to increase safety and to not adversely effect on street parking or traffic management.

7.4.2 Site Allocation RP2 sets out that Development proposals at the site will need to protect the amenity and safety of the users of the primary school on the western boundary of the site. It goes on to state that any proposals for new development should improve the public realm including pedestrian safety and be compatible with the amenity of neighbouring occupiers of buildings.

7.4.3 The proposed access and roadway has been the subject of discussions between the Council, TfL and the applicant.

- 7.4.4 The proposal would result in some alterations to the existing bus stop, with the existing bus cage to be reduced in length. The existing bus stop, flag and shelter would remain as existing.
- 7.4.5 It is noted that TfL raises no objection to the proposal. But has queried the lack of pedestrian infrastructure beyond the site boundary. Whilst these comments are noted, the proposal would not have impacts beyond the site boundary that would need to be mitigated against and therefore, it would not be reasonable to request unjustified street improvement works outside of the site for a development of this limited nature and temporary period.
- 7.4.6 Objections have been raised in relation to the safety of the proposed access and, in particular, the safety of school children walking along Burlington Road. However, the Road Safety Audit has demonstrated that the access would be suitable and it is noted that TfL and the Council's Transport Planner do not raise concerns on these grounds. The access itself would be constructed with a raised table and tactile paving and would not represent a danger to highway or pedestrian safety.
- 7.4.7 It is also important to note that the access would not be used for construction traffic, it is intended to provide access for customers in automobiles to the Tesco car park.
- 7.4.8 The Council's Transport Planner has not raised objection but requests that the issues identified in the most recent Road Safety Audit be addressed. The issues identified are as follows:
- Problem: Existing manhole cover in footway where new access is proposed.
- Solution: The manhole should be relocated to avoid the proposed access and pedestrian crossing point. Otherwise, it should feature a non-slip surface with a skidding resistance similar to the surrounding carriageway.
- Problem: Risk of head-on and side swipe type collisions between motor vehicles and cycles on access road.
- Solution: The access road should be illuminated with a system of street lighting. The access junction within the Tesco car-park should be suitably illuminated.
- 7.4.9 The issues identified are detailed design matters and these can satisfactorily be addressed by way of condition.
- 7.4.10 The existing bus stop would be retained, with the existing bus cage reduced in length. However, sufficient space would be provided for the continuing functioning of the bus stop in a safe manner and, therefore, no objection is raised in this regard. The bus stop cage would be reinstated, to a length of 37m, following the cessation of use of the temporary road.
- 7.4.11 Subject to conditions, the proposal is considered to be acceptable in terms of its impact on the local highway network and highway/pedestrian safety.

7.5 Impact on the character of the area

- 7.5.1 Policies DMD2 and DMD3 seek to ensure a high quality of design in all development, which relates positively and appropriately to the siting, rhythm, scale, density, proportions, height, materials and massing of surrounding buildings and existing street patterns, historic context, urban layout and landscape features of the surrounding area. Core Planning Policy CS14 supports these SPP Policies.
- 7.5.2 The proposal would result in the demolition of the existing vacant building on site. This building is not of a particularly high architectural quality and no objection is raised in relation to the loss of the building.
- 7.5.3 The provision of a temporary road would result in a breakage in an otherwise continuous frontage but would not result in material harm to the character of the area. In any event, the visual impact would be temporary.
- 7.5.4 The proposal is considered to comply with Policies DM D2 and DM D3 in regards to visual amenity and design.
- 7.6 Impact on neighbouring amenity
- 7.6.1 Policies DM D2 and DM D3 seek to ensure that development does not adversely impact on the amenity of nearby residential properties.
- 7.6.2 The neighbouring uses immediately adjacent to the site are a single storey car wash business and a vacant former factory building. The use of the site as a vehicular egress is not considered to give rise to any materially adverse impacts on the neighbouring uses, or the opportunity for the neighbouring sites to be redeveloped.
- 7.6.3 Due to the separation distances to neighbouring properties it is considered that there would be no material harm caused to neighbouring amenity.
- 7.6.4 The proposal is considered to comply with Policies DM D2 and DM D3 in regards to neighbouring amenity.
- 7.7 Flooding considerations
- 7.7.1 The site lies within Flood Zone 2, with a small portion of the northernmost part of the site in Flood Zone 3. The part of the site to be developed is entirely within Flood Zone 2.
- 7.7.2 In terms of fluvial flooding and climate change impacts, the submitted FRA states that the maximum depth during the 1% + 35% event could be 0.20m for the residential development and the new surface. The proposed temporary road may be affected by flooding to a level of 14.35mAOD only at the very north of the road where it enters the Tesco site.
- 7.7.3 In high and medium-risk (1 in 30-year and 1 in 100-year, respectively) surface water flood events, the proposed temporary road would not be affected. In low-risk (1 in 1000-year) surface water flood event, flood depths of 0.6m to 0.9m may occur on Burlington Road and the proposed temporary road.
- 7.7.4 Elevations along the proposed temporary road vary between approximately 14.51mAOD and 14.61mAOD (EA 2m LiDAR data), sloping south towards Burlington Road, therefore surface water flows will be directed to the LBM public highway on Burlington Road unless intercepted by appropriate

highway drainage. The FRA states that due to the temporary duration of the development no rainwater runoff mitigation would be required, however, officers conclude that despite the temporary nature of the road, appropriate drainage measures would be required nonetheless.

7.7.5 In respect of materials it is anticipated that the temporary egress road and footway will be constructed to a full depth carriageway and footway construction, with a bituminous surface course that complies with the Council's Highway Construction Standard Details. Appropriate highway drainage should be included to meet the required standard details, even on a temporary road as this could result in flooding or ponding offsite. Therefore, officers advise the imposition of a pre-commencement condition requiring construction details of the road, including drainage measures.

7.7.6 Subject to the detailed construction of the proposed temporary access road, it is considered that the proposal would be acceptable in terms of flooding, drainage and surface water runoff.

## 7.8 Air Quality Considerations

7.8.1 London plan Policy 7.14 sets out that development proposals should minimise increased exposure to existing poor air quality and make provision to address local problems of air quality, particularly within Air Quality Management Areas (AQMA). It is of note that the whole of Merton is an AQMA.

7.8.2 The proposed temporary access road would provide an alternative route onto Burlington Road throughout the construction process, should permission be granted for a wider redevelopment of the site to the north. Therefore, the proposal would not result in increased traffic movements over and above the existing situation and would have a neutral effect in terms of air quality.

## 7.9 Potentially contaminated land considerations

7.9.1 There have been former industrial/commercial uses on the land historically and the application is accompanied by a 'Preliminary Risk Assessment' (PRA) by RSK (dated 25th March 2019). The document has indicated the potential for historic ground contamination to be present and has recommended an intrusive investigation to assess this.

7.9.2 The Environment Agency and the Council's Environmental Health Officer have considered the submission and conclude that planning permission should be granted subject to conditions relating to contaminated land implications.

7.9.3 Subject to conditions, the proposal is considered to comply with Policy 5.21 of the London Plan 2016 and policy DM EP4 of Merton's sites and policies plan 2014.

## 7.10 Archaeology

7.10.1 The site is adjacent to an Archaeological Priority Zone. The proposal would result in little, if any, ground disturbance over and above the existing site layout and given that the development is not within the Archaeological Priority Zone, no requirements are considered to be necessary.

## 8. Conclusion

- 8.1 This application was submitted as a precursor to the wider mixed use redevelopment of part of the car park of the Tesco superstore, to the north of the application site (19/P2387), in order to secure temporary access for cars to exit the car park during construction works, as the route onto Burlington Road that currently provides for egress would not be available. Therefore, the necessity for this temporary road is entirely dependent on whether the wider redevelopment of the site to the north is granted planning permission.
- 8.2 Application 19/P2387 has been resolved to be refused by the Planning Applications Committee in February 2020. The application is currently being considered by the Greater London Authority under the Stage 2 referral process. In addition, an appeal against non-determination has been submitted by the applicant, with a view towards holding a Public Inquiry towards the end of 2020.
- 8.3 Therefore, officers recommend that any grant of planning permission for the temporary road be subject to a restriction, by way of s106 legal agreement, that prevents use of the temporary access road until implementation of any planning permission for the adjoining site.
- 8.4 Members should be aware that the granting of this planning application does not affect the planning merits or assessment of the wider redevelopment of the site to the north and the Council's resolution to refuse that application remains in place.
- 8.5 The proposal is considered to be acceptable subject to conditions and legal agreement.

## 9. **RECOMMENDATION**

Grant planning permission subject to s106 agreement securing the following:

- Use of road to cease on implementation of mixed-use commercial/residential scheme to land to the north.
- Reinstatement of kerb line and road markings along Burlington Road and cost to Council of all work in drafting S106 and monitoring the obligations.

And a s278 agreement securing the following:

- Amendments to highway and reinstatement of dropped kerbs (applicant to bear costs).

And the following conditions:

1. Time limit – temporary period of two years and restoration of the land
2. Approved Plans
3. B4 Details of surface treatment
4. B5 Details of Walls/Fences

5. H10 Construction Vehicles, Washdown Facilities etc
6. H13 Construction Logistics Plan
7. Non Standard Condition  
Prior to the commencement of development a program for the treatment of the existing manhole cover on the pavement of Burlington Road shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.  
Reason: To ensure the safety of pedestrians and vehicles and the amenities of the surrounding area and to comply with the following Development Plan policies for Merton: policies 6.3 and 6.14 of the London Plan 2016, policy CS20 of Merton's Core Planning Strategy 2011 and policy DM T2 of Merton's Sites and Policies Plan 2014.
8. Non Standard Condition  
Prior to the commencement of development a lighting specification for the temporary access road shall be submitted to and approved in writing by the Local Planning Authority. The lighting agreed shall be installed and operational prior to the first use of the access road.  
Reason: To ensure the safety of pedestrians and vehicles and the amenities of the surrounding area and to comply with the following Development Plan policies for Merton: policies 6.3 and 6.14 of the London Plan 2016, policy CS20 of Merton's Core Planning Strategy 2011 and policy DM T2 of Merton's Sites and Policies Plan 2014.
9. Prior to the commencement of 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), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
  - 1) A site investigation scheme, based on the PRA, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - 2) The results of the site investigation and detailed risk assessment referred to in (1) 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.
  - 3) 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 (2) 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 consent of the local planning authority. The scheme shall be implemented as approved.  
Reason: For the protection of Controlled Waters. The site is located over a Secondary Aquifer and it is understood that the site may be affected by historic contamination.
10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall

be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.

Reason: Having regard for the potential for unexpected contamination to be identified during development groundworks.

11. Prior to occupation of the development, a verification report demonstrating completion of the 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, if appropriate, and for the reporting of this to the local planning authority. Any long-term monitoring and maintenance plan shall be implemented as approved.

Reason: Having regard for the potential for environmental risks associated with the development.

12. No drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to Controlled Waters. The development shall be carried out in accordance with the approval details.

Reason: To protect the underlying groundwater from the risk of pollution. Infiltrating water has the potential to cause remobilisation of contaminants present in shallow soil/made ground which could ultimately cause pollution of groundwater.

13. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: The developer should be aware of the potential risks associated with the use of piling where contamination is an issue. Piling or other penetrative methods of foundation design on contaminated sites can potentially result in unacceptable risks to underlying groundwaters.

14. Condition: No development approved by this permission shall be commenced until a construction details are provided to demonstrate the proposed surface water drainage arrangement for the temporary access road. The surface water drainage scheme must be submitted to and approved in writing by the local planning authority before

development commences. The drainage scheme will include construction level drawings showing drainage layout and will ensure no runoff from the temporary access road is discharged offsite and onto Burlington Road without being intercepted by the proposed drainage system.

Reason: To reduce the risk of surface flooding offsite from the proposed development in accordance with Merton's policies CS16, DMF2 and the London Plan policy 5.13.

15. Condition: Prior to the commencement of development, the detailed design and specification for the highway construction shall be submitted to and approved in writing by the Local Planning Authority. The design shall be carried out as approved, retained and maintained by the applicant in perpetuity thereafter.

Reason: To reduce the risk of surface flooding offsite in accordance with Merton's policies CS16, DMF2 and the London Plan policy 5.13.

Informatives:

1. Informative:  
The Highway section of the Council must be contacted prior to any works commencing on site to agree relevant licences, and access arrangements – no vehicles are allowed to cross the public highway without agreement from the highways section.  
The applicant should contact David Furby of Council's Highway Team on: 0208 545 3829 prior to any work starting to arrange for this works to be done.
2. Informative:  
Prior to any works to the bus stop or cage TfL requests an onsite meeting, with the developer, TfL Asset Operations and London Borough of Merton.
3. Informative  
No surface water runoff should discharge onto the public highway including the public footway or highway. When it is proposed to connect to a public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required (contact no. 0845 850 2777).
4. Informative  
No waste material, including concrete, mortar, grout, plaster, fats, oils and chemicals shall be washed down on the highway or disposed of into the highway drainage system.