

MADDOX PLANNING
PLANNING AND
RETAIL STATEMENT

63 THE LINKWAY, MIDDLEBROOK
NOVEMBER 2023

Description of development

Variation of condition (1) attached to planning permission 86115/11 to allow for occupation by a charity shop

Type of application

Full planning permission (Section 73)

Applicant

Orbit Investments (North) Limited

List of supporting documents

1. Site location plan
 2. Planning and Retail Statement, Maddox Planning (this document)
-

Development plan

The adopted development plan comprises:

1. Bolton's Core Strategy Development Plan Document (adopted 2 March 2011)

The emerging development plan comprises:

1. Places For Everyone Joint Development plan 2021-2037 (main modifications stage) – proposed modifications are no subject to consultation which runs for eight weeks until 6 December 2023.
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Policies map

The following designations on the policies map are particularly relevant:

1. Core Strategy Subs Areas, Horwich and Black Road: Policy OA1, Bolton's Core Strategy Development Plan Document (adopted 2 March 2011) (on-site)
 2. Retail and Leisure uses at Middlebrook: Policy OA2, Bolton's Core Strategy Development Plan Document (adopted 2 March 2011) (on-site)
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Planning policies

The following adopted and emerging planning policies are particularly relevant:

Document	Policy number	Policy title	Referred to in paragraph number of this statement
Bolton's Core Strategy Development Plan Document (adopted 2 March 2011)	OA1	Horwich and Blackrod	-

Bolton's Core Strategy Development Plan Document (adopted 2 March 2011)	OA2	Retail and Leisure uses at Middlebrook	3.3, 3.4, 4.2, 4.3
Bolton's Core Strategy Development Plan Document (adopted 2 March 2011)	P2	Retail and Leisure	-
Bolton's Core Strategy Development Plan Document (adopted 2 March 2011)	M4	Middlebrook	-

Other material considerations

Other material considerations (such as national planning policy and supplementary planning documents, area action plans and design briefs) include:

1. National Planning Policy Framework, September 2023
2. National Planning Practice Guidance, various dates
3. Bolton Retail and Leisure Study Volume 1 – Main Report (21 August 2008)

Relevant planning decisions

Reference/address	Description	Status/decision date	Referred to in paragraph number of this statement
On-Site			
NMA (ref TBC) 63 The Linkway, Horwich, Bolton, BL6 6JA	Non-material amendment to change the description of development on 86115/11 from <i>Variation of condition 2 on permission 63071/02 to allow up to 20% of the net retail sales area to be used for ancillary sale of clothing and fashion goods</i> to <i>Variation of condition 2 on permission 63071/02</i>	Submitted 23/11/2023	2.3, 2.4
86115/11 63 The Linkway, Horwich, Bolton, BL6 6JA	Variation of condition 2 on permissions 63071/02 to allow up to 20% of the net retail sales area to be used for ancillary sale of clothing and fashion goods.	Approve subject to conditions. 14/06/2011	2.1, 2.3, 2.4, 2.6

63071/02 Unit 10D, Middlebrook Retail Park, Horwich, BL6 6JA	Change of use of premises to restricted 'bulky goods' retail (A1).	Approve subject to conditions. 29/11/2002	2.3
61658/02 Unit 10D, Middlebrook Retail Park, Horwich, BL6 6JA	Change of use of showroom to form sales room for flat packed furniture.	Approve subject to conditions. 05/06/2002	-
54129/99 Unit 9 Retail Phase C Off Aspinall Way Middlebrook Horwich	Erection of a non-retail unit	Approve subject to conditions. 04/03/1999	-
Off-Site			
06347/19 Unit 16 75-77, The Linkway, Horwich, Bolton, BL6 6JA	Variation of condition R7 on application 45960/95 (to amend the range of good that can be sold from the unit)	Approve subject to conditions 10/09/2019	-
02223/17 8-10 The Linkway, Horwich, Bolton, BL6 6JA	Change of use from retail (class A1) to retail (class A1) and/or café (class A3) and/or public house (class A4) together with external seating area.	Approve subject to conditions. 21/12/2017	-
71848/05 54 The Linkway, Horwich, Bolton, BL6 6JA	Section 73 application to vary condition 6 on planning permission 45960/94 (to allow up to 59.3% of retail sales floor space to be used for sale of clothing, shoes, toys, fashion accessories, books or jewellery).	Approve subject to conditions. 30/09/2005	-

Contents of this statement

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2. Proposed development
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4. Considerations – sequential test
5. Other considerations
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Appendices

1. Planning permission 86115/11

1.0 Site and area description

- 1.1 The site address is unit 63 The Linkway, Middlebrook, Horwich, Bolton, BL6 6JA. The site area is 0.10ha.
- 1.2 The application site is located 2.6 km south of Horwich town centre. It is located off the A6027 and accessed via Mansell Way to the east of the site. Mansell Way links the site to the M61, Bolton and Manchester. The site is also accessible from the housing area to the north.
- 1.3 Unit 63 is part of the Middlebrook Retail and Leisure Park. The unit was last occupied by Laura Ashley, prior to the Laura Ashley business falling into administration. The unit has been vacant since March 2020.
- 1.4 Middlebrook Retail and Leisure Park is one of the largest integrated and sustainable employment, leisure, sports and retail scheme in the UK with a total floorspace of over 60,000 sq. m. The retail park was completed in 1996 by Orbit Developments in partnership with Bolton Wanderers FC and Bolton Council. Middlebrook has over 60 retail outlets, alongside restaurants and leisure facilities. There are over 12.5 million visitors each year.
- 1.5 Retailers, leisure outlets and F&B operators at Middlebrook include: Vue Entertainment, McDonalds, Nandos, Pizza Hut, Bella Italia, Currys, Home Bargains, Pets at Home, KFC, Marks and Spencer, Wagamana, TK Maxx, Greggs, Next, Boots, JD Sports, Starbucks Coffee, ScS, DFS, Specsavers, Bensons for Beds, Asda and Clarks. The retail park is set within the wider Middlebrook area including the Bolton Wanderers FC Toughsheet Community Stadium and Bolton Arena, to the south. To the northeast is the Paragon Business Park and to the east is the Parklands office development (Orbit) and Lostock Industrial Estate.
- 1.6 To the northwest of the site the former Horwich Loco Works. The former railway works is being brought forward for mixed use development including up to 20 hectares of land for employment uses and up to 1,600 new homes. Work commenced in 2018.
- 1.7 The Middlebrook Retail and Leisure Park is serviced by approximately 3,000 vehicle parking spaces including accessible parking spaces. The site is also serviced by Horwich Parkway train station, which is located on the Manchester to Preston line. Bus route 516 also serves the site. There are roadside footways into and around the site.
- 1.8 The site is located within Flood Zone 1 (lowest probability of flooding). The site is not located within an Air Quality Management Area (AQMA).
- 1.9 The site is located 0.6 km from the Grade II listed Lower House Farmhouse.

2.0 Proposed development

- 2.1 The proposed description of development of the S73 planning application is:

Variation of condition (1) attached to planning permission 86115/11 to allow for occupation by a charity shop

- 2.2 A nationally recognisable charity is at an advanced stage of discussions with the applicant regarding occupation of the unit as a retail store.
- 2.3 The S73 planning application is submitted at the same time as a simple non-material amendment (NMA) application to change the description of development on the operative planning permission (ref: 86115/11) by removing reference to *20% of the net retail sales area to be used for ancillary sale of clothing and fashion goods*. This is in the interests of avoiding any possible inconsistency with the current S73 variation of condition sought. The change to the description of development would be from *Variation of condition 2 on permission 63071/02 to allow up to 20% of the net retail sales area to be used for ancillary sale of clothing and fashion goods* to *Variation of condition 2 on permission 63071/02*.
- 2.4 Reference in the existing description of development to a trading restriction is erroneous, as it is only conditions that can control the use of floorspace. In this instance, it is condition 1 attached to planning permission ref: 86115/11 that controls the use of floorspace in unit 63. This would continue to be the case if planning permission is granted for the variation of condition sought. There would be no change in the way in which the floorspace might be used, other than in being additionally permissive of a charity shop trading without restriction. As there is no change to the development sought through the NMA application, the proposed amendment sought is justifiably non-material in nature.
- 2.5 The S73 planning application proposes a variation condition 1 attached to planning permission ref: 86115/11 to additionally allow a charity shop to trade without restriction. The proposed amended wording of condition 1 is:

With the exception of Unit 63 the Linkway Middlebrook Retail Park (for the avoidance of doubt such unit being edged red on the plan attached) the retail premises hereby permitted shall not be used for the sale of clothing, shoes, toys, fashion accessories, books or jewellery. However within Unit 63 the Linkway, up Unit 63, The Linkway, Middlebrook (for the avoidance of doubt such unit being edged red on the plan attached) may be used without restriction as a charity shop, and alternatively up to 20% of the net retail sales floorspace within the unit may be used by anything other than a charity shop for the sale of clothing and fashion accessories (unless otherwise agreed in writing by the Local Planning Authority) and, for the avoidance of doubt, any net retail sales floorspace within the unit not used for the sale of such goods may be used for the sale of 'bulky goods' permitted under Class A1 of the Use Classes (Amendment) Order 2005.

Reason

To safeguard the existing characteristics of the area

- 2.6 The early part of the condition is amended as it can only exercise control over unit 63, as this is the only unit within the red line area of planning permission ref: 86115/11 and the applicant 'Laura Ashley' had no ownership or control over any of the other units at Middlebrook; and so, the only unit within the red line area of the S73 application. This early part of the condition is amended to say that the unit may be used without restriction as a charity shop. The remainder of the condition remains the same in respect of its references to clothing and fashion accessories and bulky goods, apart from the words '*...by anything other than a charity shop*' being added in to clarify that the 20% net retail sales area restriction on the sale of clothing and fashion accessories is by any retailer other than one operating as a charity shop.

Bringing unit 63 back into active use

- 2.7 Since 2020, when previous tenant Laura Ashley fell into administration, Orbit Developments (parent company to the applicant) together with commercial agents Avison Young and Morgan Williams, has run an extensive marketing campaign. Marketing of the unit did not attract any offers ahead of the current interest

from a nationally recognisable charity. The unit has remained vacant for three and a half years, despite the marketing efforts of Orbit Developments and its agents. The proposed development offers the potential to bring the floorspace back into active use.

Unit floorspace

- 2.8 Unit 63 has a GIA of 1,018 sq. m. The proposed development does not result in any change to the GIA.

Internal layout

- 2.9 The proposed charity shop is expected to sell a typical range of primarily second-hand clothing and accessories, bridalwear, furniture, homewares, electrical goods, books, digital media, mobility aids and bric-a-brac.
- 2.10 The internal configuration of the unit will remain largely the same as existing, and in any case this is not restricted by any condition. There is a bulk store and a back of house areas in addition to the sales area. There is a staff kitchen and WCs, including an accessible toilet. There is a staff entrance/exit at the rear of the unit.

Scale and massing

- 2.11 There is no change to the building such that the scale and massing remains the same as existing.

External layout and appearance

- 2.12 There is no change to the external layout and appearance, save for new tenant branding and logos. The façade of the building would feature tenant advertisements, which would be subject to a separate application for advertisement consent.

Landscaping

- 2.13 The proposed development does not have any impact on hard and soft landscaping at Middlebrook.

Access and parking

- 2.14 The site access and egress are from Mansell Way to the east, travelling anti-clockwise onto The Linkway and into the parking areas of the retail park. The proposed development does not have any impact on access and parking arrangements at Middlebrook.

Refuse and servicing

- 2.15 Refuse and servicing arrangements will be broadly consistent with that of the past tenant and arrangements of other businesses locally.

3.0 Considerations – Principle of development and sustainable development

- 3.1 Section 38(6) of the Planning Compulsory Purchase Act 2004 (as amended) requires that proposals be determined in accordance with the development plan unless significant material considerations indicate otherwise. This statement first considers the principle of retail development and sustainable development, having regard to development plan policy and the Framework. It addresses sequential test. It then addresses other considerations that are relevant to this proposal having regard to the development plan and significant material considerations including the Framework.

Principle of retail development

- 3.2 Unit 63 is located on an existing established retail park from which a very broad range of retail goods is sold.
- 3.3 The proposed occupation by a charity and resultant need to vary the restrictive goods conditions attached to the operative planning permission necessitates a consideration of retail planning matters. In this context, policy OA2 of the Core Strategy states that:

‘...the council and its partners will plan for changes in retailing and leisure at Middlebrook provided there is no adverse effect on Bolton town centre or any other centres, and that there is no substantial increase in floorspace.’

- 3.4 Policy OA2 is not entirely consistent with current national planning policy and guidance for retail development.
- 3.5 Bolton’s Planning Validation Checklist (adopted July 2016), states that in terms of *‘retail, leisure and office uses an Impact Assessment must be submitted with applications for more than 2500 gross metres of floor space.’*
- 3.6 The Validation Checklist adopts the same 2,500 sq. m GIA threshold as paragraph 90 of the Framework, which states that:

When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace).

- 3.7 It is clear from both the locally set threshold and the Framework that impact is not a relevant consideration for a unit that has a GIA of significantly less than the 2,500 sq. m threshold.
- 3.8 A proportionate consideration of the sequential test is relevant, and this is addressed below in Section 4.0.

Sustainable development

- 3.9 Paragraph 7 of the Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 continues that achieving sustainable development means that the planning system has three overarching objectives: an economic objective – to help build a strong, responsive and competitive economy; a social objective – to support strong, vibrant and healthy communities including through support for communities’ health, social and cultural well-being; and an environmental objective – to contribute to protecting and enhancing the natural, built and historic environment
- 3.10 The Framework sets out that development management decisions should apply a presumption in favour of sustainable development and that means approving development proposals that accord with an up-to-date development plan without delay (paragraph 11).

- 3.11 The proposed development is in a sustainable and accessible location. It is likely that a high proportion of donors bringing charitable goods to the store as donations will conjoin their journey with other journeys, resulting in linked trips potentially reducing vehicle-based journeys locally.
- 3.12 Reoccupation of unit 63 by a charity will facilitate the sustainable reuse of existing floorspace, and the recycling of second-hand goods; saving an estimated 155 tonnes of items from going to landfill.
- 3.13 The proposed development will also give back to the community locally, through the support that the charity is able to provide because of the funds that it raises. It will also provide volunteering opportunities, especially beneficial to those who are lonely or socially isolated, or are wanting to learn new skills, give something back or bridge a gap between employment. Some of the volunteers who work with the charity progress to be in employment with it.

4.0 Considerations – sequential test

Application of the sequential test

- 4.1 The proposed development is specific to the Middlebrook Retail and Leisure Park and is pursuant to the commercial requirements of an incoming charity that has identified a requirement for representation in this location. The objective of this planning application does not translate to any other location. The applicant does however appreciate national policy requirements in respect of the sequential test.

The sequential test and policy guidance

- 4.2 Policy OA2 of the Core Strategy states that *‘the council and its partners will plan for changes in retailing and leisure at Middlebrook provided there is no adverse effect on Bolton town centre or any other centres, and that there is no substantial increase in floorspace.’* This does not explicitly reference the sequential test.

- 4.3 Policy OA2 is not entirely consistent with current national policy and guidance for retail development.

- 4.4 The Framework (2023) at paragraph 87 is more instructive, where it states that:

‘Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered’.

- 4.5 Paragraph 91 of the Framework states that *‘Where an application fails to satisfy the sequential test ... it should be refused’.*

- 4.6 The Planning Practice Guidance provides further detail on how the sequential test should be used in decision making:

*‘It is for the applicant to demonstrate compliance with the sequential test (and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission). Wherever possible, the local planning authority is expected to support the applicant in undertaking the sequential test, including sharing any relevant information. **The application of the test will need to be proportionate and appropriate for the given proposal.** Where appropriate, the potential suitability of alternative sites will need to be discussed between the developer and local planning authority at the earliest opportunity’.* [our emphasis]

- 4.7 A checklist sets out the considerations in determining whether a proposal complies with the sequential test:

- with due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. It is important to set out any associated reasoning clearly.
- is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
- if there are no suitable sequentially preferable locations, the sequential test is passed.

- 4.8 It goes on to say that:

‘In line with paragraph 86 of the National Planning Policy Framework, only if suitable sites in town centre or edge of centre locations are not available (or expected to become available within a reasonable period) should out of centre sites be considered. When considering what a reasonable period is for this purpose, the

*scale and complexity of the proposed scheme and of potentially suitable town or edge of centre sites should be taken into account*¹.

- 4.9 Its final clarification is that compliance with the sequential and impact tests does not guarantee that planning permission will be granted; all material considerations will need to be considered in reaching a decision.

Paragraph: 011 Reference ID: 2b-011-20190722 of the Planning Practice Guidance (18 September 2020)

Defining a catchment area

- 4.10 The proposed development is pursuant to a charity opening a retail store in unit 63. The nature of charity shops means that an outlet will typically have a localised catchment area and will not attract shoppers from a wide catchment area. This is reflected in the relatively narrow catchment area adopted for the proposed development, which is limited to the immediate Horwich area. Horwich town centre is the only defined centre within the catchment area adopted.
- 4.11 This is the same approach that was adopted following agreement with the local planning authority in respect of a variation of condition application regarding another unit at the retail park. The LPA granted planning permission in 2019 and this allowed Home Bargains to trade.

Flexibility in format

- 4.12 The GIA of unit 63 is 1,018 sq. m.
- 4.13 Case law on the sequential test is clear that an alternative site must be *closely similar*.
- 4.14 Reference can be made to Secretary of State decisions. In Tollgate, 2017 the SOS agreed with the Inspector who concluded that ‘...*whilst a sequentially preferable site need not be capable of accommodating exactly the same as what is proposed, it must be capable of accommodating development which is closely similar to what is proposed*’ (paragraph 12.3.20). Similarly, in Handforth Dean, 2019 the Inspector references Tollgate and notes at paragraph 9.192 that an alternative site should have an offer that ‘...*is reasonably or closely similar*’. Again, the SOS agreed with this position.
- 4.15 For an alternative to the application site to be considered suitable, it must offer: opportunity for a quantum of retail floorspace that is not materially different to that which would be offered by the charity shop. The site must also have adjacent parking provision.
- 4.16 The consideration of alternative sites and premises is undertaken in the context of what would reasonably be considered an appropriate degree of flexibility in format, consistent with national guidance and case law. An accepted approach to flexibility in format is a 10% threshold either side of the combined GIA. In this instance this translates to 10% either side of 1,018 sq. m and sites capable of accommodating main town centre uses floorspace of between 915 sq. m GIA and 1,120 sq. m GIA. This approach is justifiable and in accordance with the Framework.
- 4.17 Nationally, charity retailing is going through a metamorphosis with an increasing move towards larger footprint units that enable the sale of a broader range of charitable goods and increased operational cost effectiveness of their retail operations.

Consideration of sites

- 4.18 In November 2023, Maddox completed a survey of sites and premises in and at the edge of Horwich town centre.
- 4.19 An up-to-date consideration of alternative sites and premises suggest that none is available that could be considered as closely similar to unit 63. A full consideration of site and premises follows, informed by the Maddox surveys. This is in the interest of confirming that the sequential test is passed.

¹ Paragraph 87 in the July 2021 version of the Framework

Horwich

- 4.20 Horwich town centre is 2.6 km from the application site.
- 4.21 Within and at the edge of Horwich there town centre is a number of individual commercial sites/premises which are vacant and/or advertised as available. None of these sites/premises are considered suitable, even with a reasonable degree of flexibility employed and, in some cases, they are only available on a short-term basis or are already under offer. Sites/premises are listed for completeness, but none are a realistic alternative. These are:
- 2 Scholes Bank (former Just Ask Café): Vacant and advertised as available, 194.5 sq. m GIA
 - 18 Winter Hey Lane (former Café Brambles): Vacant and advertised as available, 105.6 sq. m GIA
 - 49 Winter Hey Lane (former Boss Brows): Vacant and available, 70.79 sq. m GIA
 - 89 Winter Hey Lane (former eCars): Vacant and unavailable, 58.2 sq. m GIA
 - 54 Lee Lane (former Cheryl Holden Jewellery): Advertised as available, 74.2 sq. m GIA
 - 50 Lee Lane (former She Nailed It): Advertised as available, 78.7 sq. m GIA
 - 90-92 Lee Lane (former International Aid Trust): Vacant and available, 81.84 sq. m GIA
 - Craven House, 32 Lee Lane (former True Potential Wealth Management): Vacant and available, 24.34-33.63 sq. m GIA
 - Crown Lane (two industrial units over one site): Vacant and available, 621 sq. m GIA
 - Albert Mill, Albert Street (former Car Garage); Vacant and available, 133 sq. m GIA
 - Yard 1, Albert Works, Albert Street: Vacant and available, 366 sq. m GIA
- 4.22 None of the individual sites/premises identified is suitable as a potential alternative. All sites/premises are significantly below the minimum required size of 915 sq. m GIA, with a reasonable degree of flexibility employed.
- 4.23 There are no other town or edge of centre sites of premises that would be both suitable and available for a charity shop GIA of at least 915 sq. m, with adjacent vehicle parking.
- 4.24 A November 2023 survey of vacant and/or available town centre and edge of town centre premises and sites in and at the edge of Horwich town centre has confirmed that none is suitable for proposed development, with a reasonable degree of flexibility employed.
- 4.25 The sequential test is passed.

5.0 Other considerations

Design

- 5.1 Policy CG3, *The Built Environment* sets out that the Council expects that development proposals will display innovative, sustainable designs which contribute to good urban design whilst ensuring that all design is inclusive and accessible to all regardless of age, gender, background or disability.
- 5.2 The proposed development is sustainable in nature and inclusive.
- 5.3 Paragraph 126 of the Framework states that *'good design is a key aspect of sustainable development, create better places in which to live and work and helps make development acceptable to communities.'* Paragraph 130 of the Framework (2023) sets out that planning policies and decisions should ensure that developments will *'function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.'*
- 5.4 Whilst the proposed development relates only to change of use, the proposal is consistent with the principles of sustainability and inclusivity. It is entirely appropriate within its surrounding context and will facilitate the sale of second-hand goods from a leading northwest retail destination thereby increasing accessibility to a broad range of more affordable goods including clothing, furniture and homewares.

Sustainability

- 5.5 Core Strategy policy CG2 *Sustainable design and construction*, sets out how the Council will seek to ensure that all proposed developments deliver a high standard of sustainable development, designed to mitigate adverse climate effects. Policy CG2 includes a list of minimum standards which should be met.
- 5.6 Paragraph 8 of the Framework discusses that the achievement of sustainable development will mean that the planning system has three overarching objectives. The economic objective states that *'to help build a strong responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure...'*
- 5.7 Whilst the proposed development is for change of use only, it is consistent with both local and national commitments to greater levels of sustainability in the built environment.

Transport

- 5.8 Core Strategy policy P5 *Accessibility and Transport* sets out that the Council will seek to ensure that developments are accessibility by different types of transport, prioritising pedestrians, cyclists, and public transport. The policy also seeks to ensure that the design of proposed developments will enable accessibility by public transport.
- 5.9 Paragraph 112 of the Framework sets out that importance should be given to pedestrian and cycle movements, and the needs of people with disabilities and reduced mobility, through creating places which are safe, secure and attractive.
- 5.10 The proposed development does not have any impact on access and parking arrangements at Middlebrook but is consistent with local and national promotion of planning for sustainable travel choices.

Flood Risk

- 5.11 Core strategy policy CG1 *Cleaner and Greener* sets out that to reduce the risk of flooding Bolton and other areas downstream ‘*water run-off from new development and ensuring a sequential approach is followed, concentrating new development in areas of lowest flood risk.*’
- 5.12 Paragraph 159 of the Framework discusses that development within areas which are at risk of flooding should be avoided by directing development away from areas at the highest risk.
- 5.13 The site is located entirely within flood zone 1 (lowest probability of flooding) and so consistent with the principle of directing development to areas at the least risk of flooding.

Ecology

- 5.14 There are no relevant ecology considerations.

Trees

- 5.15 There are no relevant arboricultural considerations.

6.0 Conclusions

6.1 This planning and retail statement demonstrates that a proposed development concerning the introduction of a charity shop into unit 63 at Middlebrook Retail and Leisure Park is in accordance with the development plan overall and material policies in the development plan that are considered up to date for development management purposes. There is no significant material consideration that indicates any reason to depart from this conclusion of compliance overall with the development plan.

6.2 The proposed development passes the sequential test as set out in the Framework.

Benefits of the proposal

6.3 The principal benefits of the proposed development are:

- Reoccupation of a unit that has remained vacant for three and a half years, since the previous tenant fell into administration in 2020;
- A retail opportunity for a charity which specialises in the re-sale of pre-loved goods at affordable prices, provides for the recycling of clothing, furniture, homewares and other items, and gives back to the local community through its charitable efforts;
- Diversion of goods that would otherwise be treated as waste and sent to landfill;
- Direct and indirect job creation, including volunteering opportunities;
- Further establishing Middlebrook as a retail destination and increasing choice locally;
- Development that is entirely appropriate to its location, as Middlebrook is already a mix of retail, leisure and commercial uses;
- Development in a sustainable located serviced by public transport; and
- Potential for linked trips.

6.4 Paragraph 11 c) of the Framework is engaged, as the proposed development constitutes sustainable development that is entirely consistent with relevant policies of the development plan which are considered up to date for development management purposes. The Framework is clear that for decision-taking, the presumption in favour of sustainable development means approving development proposals that accord with an up-to-date development plan without delay.

6.5 Planning permission should be granted without delay.

Appendix 1

PLANNING DECISION NOTICE

BOLTON METROPOLITAN BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990
PLANNING PERMISSION

Agent: **Burns
DPP
3 The Exchange
New York Street
Manchester
M1 4HN**

Applicant: **Laura Ashley Ltd
27 Bagleys Lane
Fulham
London**

Part 1 - Particulars of the Application

Application Number: **86115/11**
Date of Application: **21/04/2011
16:00:11**

Proposed: **VARIATION OF CONDITION 2 ON PERMISSION 63071/02 TO
ALLOW UP TO 20% OF THE NET RETAIL SALES AREA TO BE USED
FOR ANCILLIARY SALE OF CLOTHING AND FASHION GOODS**

Location: **63 THE LINKWAY, HORWICH, BOLTON, BL6 6JA**

Part 2 - Particulars of Decision

The Bolton Metropolitan Borough Council hereby give notice in pursuance of the above mentioned Regulations **permission has been granted** for the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:

- 1 With the exception of Unit 63 the Linkway Middlebrook Retail Park (for the avoidance of doubt such unit being edged red on the plan attached) the retail premises hereby permitted shall not be used for the sale of clothing, shoes, toys, fashion accessories, books or jewellery. However within Unit 63 the Linkway, up to 20% of the net retail sales floorspace within the unit may be used for the sale of clothing and fashion accessories (unless otherwise agreed in writing by the Local Planning Authority) and, for the avoidance of doubt, any net retail sales floorspace within the unit not used for the sale of such goods may be used for the sale of 'bulky goods' permitted under Class A1 of the Use Classes (Amendment) Order 2005.

Reason

To safeguard the existing characteristics of the area

The Council has granted planning permission, subject to the conditions listed above, because the proposed development is in accordance with all relevant policies of the Development Plan (the Core Strategy and the Regional Spatial Strategy Plan for the North-West), as is required by Section 38 of the Planning and Compulsory Purchase Act 2004. There are no material considerations, as specified in the Planning Officer Report, that outweigh this justification to support the grant of planning permission. A summary of the relevant Development Plan policies pursuant to Article 22 of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003 and how the proposed development relates to these policies is set out below.

Date of Decision:**14/06/2011**

signed:



on behalf of Bolton Metropolitan Borough Council

Important Note: This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation.

GREATER MANCHESTER ACT 1981

Notice is given in accordance with Section 63, Greater Manchester Act 1981, that consideration will be given to means of access for the fire brigade in appropriate cases where plans are deposited for building regulations approval.

APPEALS TO THE FIRST SECRETARY OF STATE

If you are aggrieved by the decision of your Local Planning Authority to refuse permission or to grant it subject to conditions, then you can appeal to the First Secretary of State, **please note that only the applicant possesses the right of appeal.**

If you want to appeal, then you must do so within six months (8 weeks for advertisements) of the receipt of this notice, using the appropriate form which you can get from Planning Inspectorate, Customer Services, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN Tel: 0117 372 6372. Appeals can also be made online at www.planningportal.gov.uk.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him/her that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

In practice, The Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him/her.

Copies of Appeal forms for the attention of the Council should be sent to the Director of Chief Executive's Department, C/o Room 115, 1st Floor, Town Hall, Bolton, BL1 1RU or email legal.services@bolton.gov.uk.

PURCHASE NOTICES

If either the Local Planning Authority or the First Secretary of State refuse permission to develop land or grants it subject to conditions, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor can he/she render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council on whose area the land is situated. This notice will require the Council to purchase his/her interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act 1990.

COMPENSATION

In certain circumstances compensation may be claimed for the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him/her.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990.