

At a meeting of the Development Panel held in Council Chamber, Allerdale House on Tuesday 29 March 2022 at 10.00 am

Members

Councillor Tony Annison (Chair)
Councillor Nicky Cockburn
Councillor Allan Daniels
Councillor George Kemp
Councillor Ron Munby MBE
Councillor Alan Smith

Councillor Janet Farebrother (Vice-Chair)
Councillor John Crouch
Councillor Daniel Horsley
Councillor Elaine Lynch
Councillor Paul Scott

Apologies for absence were received from Councillor Carole Armstrong, Councillor Antony McGuckin, Councillor Andrew Semple and Councillor Alan Tyson

Staff Present

G Law, S Long, K Magnay and S Sewell

447. Minutes

The minutes of the meeting on 15 March 2022 were signed as a correct record.

Following the deferment of application FUL/2021/0301 at the meeting held on 15 March 2022, the Planning Manager reminded members this was deferred contrary to policy. The Planning Manager and the applicant have since had a positive meeting with a good design and which is satisfactory to the applicant, the Planning Manager asked members if they would be willing to delegate the decision to officers in line with the policy.

Councillor T Annison proposed to accept the recommendation and give the officers delegated decision.

Councillor A Daniels seconded the proposal.

Members discussed the proposal and attempted to seek a resolution, following members concerns it was advised by the Legal Officer to bring back the application to panel at the next available opportunity.

Councillor T Annison withdrew the motion.

448. Declaration of Interests

Councillor A Smith declared an interest in item 6 FUL/2019/0210 and will leave the meeting, Councillor Smith is a director of AIP.

449. Questions

None received.

450. 2/2018/0595 - Land west of Derwent Howe Retail Park, Derwent Drive, Workington - Outline planning application for commercial development

involved mixed retail (A1) food (A3) and hot food takeaways (A5) totalling 2,350sqm (25.295sqft)

Representations

Steve Doyle, Robert Parks and Richard Pratt spoke in objection to the application.

The Agent, Graham Hale spoke in support of the application.

Application

The Senior Planning Officer, Steve Long recommended to grant the application subject to conditions

The Senior Planning Officer reported reference to the late list document, and additional conditions.

The Senior Planning Officer outlined the application and detailed the main issues within the report as follows:

- **Principle of Development**

The proposed retail store is considered to be a 'town-centre' use and as such the application is subject to a sequential assessment to discount other available sites within the town centre, plus a retail assessment to demonstrate any impact of the vitality and viability of the town centre. It has been robustly evidenced that there are no suitable, available sites in sequentially preferable locations to accommodate the development and the impact is acceptable.

Furthermore this evidence has been the subject of an independent peer review. It is concluded subject to planning condition on the type of comparison goods, that there are no available or suitable, alternative sites in sequentially preferable locations to accommodate the proposed development and the retail impact on the vitality and viability of the town centre is acceptable.

The proposal therefore complies with policies S16 and DM8 of the Allerdale Local Plan Part 1.

- **Highway Safety**

The site is in a sustainable location with access to public transport.

The application is supported by traffic assessment and the application includes the reserved matters of access which is served via the existing roundabout junction opposite Morrison's retail park on Derwent Drive.

The County Council as highway authority consider the transport evidence to be acceptable.

- Ecology

The application site relates to the route of a former disused railway line which has naturally regenerated. The application has undertaken an ecology survey of the site, plus a bat, reptile and an Entomology report at the time of the application submission. In response to the representations the council undertook its own peer butterfly assessment in 2019. As the original were out of date during the course of the application an updated amended preliminary ecological appraisal was submitted (July 2021)

The surveys recommend mitigation measures to address any impacts.

Whilst the presence of small blue butterfly colonies and habitat is evident in the locality, the applicant has offered a mitigation scheme partially retaining islands and securing a new peripheral corridor for butterflies which compensates for any loss and retains the connectivity linkage along the route of the disused line. The proposal as amended complies with policy S35.

- Trees

The belt of trees on the eastern boundary of the site fronting onto Derwent Drive were formerly protected by a Tree Preservation Order as they were perceived as being under threat by the development. The application has defined a developable zone within the site which would result in the loss of the trees on the western side of the roadside embankment which supports the trees. As this results in the visual amenity value of the trees visible to public view on Derwent Drive being retained, these details are considered acceptable, with no significant harm to public amenity.

Following member discussions, Councillor D Horsley proposed to defer the application to clarify the rights of way of the footpath, to do an up to date butterfly count due to the figures being out of date and an ecological study.

Councillor A Smith seconded the motion.

A vote was taken: 10 voted in favour of deferment and 1 against.

The motion in favour of deferment was carried.

Decision

Deferred

Break for Lunch 12:35 - 13:00

Councillor Smith and Councillor Munby left the meeting

451. FUL/2019/0210 - Land at New Bridge Road, Workington - Erection of a new discount foodstore with car parking, landscaping and other associated works

Representations

Lidl Representative, Richard Huteson spoke in support of the application.

Application

The Planning Manager, Graeme Law recommended to grant the application, subject to the planning conditions and S106 as set out in the Panel Report and Late List and with a further requirement for screening for nutrient neutrality.

The Planning Manager outlined the application and detailed the main issues within the report as follows:

- Principle of Development

The proposed retail store is considered a 'town-centre' use and so the application is subject to a 'sequential assessment', (in order to discount other available sites which are sequentially preferable) plus a retail assessment (to demonstrate that the impact upon the vitality and viability of the town centre is acceptable).

- Sustainability of Location and Highway Safety

The site is in a sustainable location. The access and parking proposed for vehicular trips are acceptable given the sustainable location, which will attract trips by non-motorised users.

- Landscape/Ecology

The site is within the Lower Derwent Valley designation (SA49) and is also included inside the wider river corridor's designated Green infrastructure (SA52) in the Allerdale Local Plan Part 2.(ALPP2)

There will be no adverse impact on the Special Area of Conservation (SAC) designation of the River Derwent, subject to mitigation. These conclusions reflect the 'Appropriate Assessment' under the Habitat Regulations. Biodiversity gain can be secured by an s106 legal agreement.

- Design and Layout

The site is within the Lower Derwent Valley designation (SA49) and is also included inside the wider river corridor's designated Green infrastructure (SA52) in the Allerdale Local Plan Part 2.(ALPP2)

There will be no adverse impact on the Special Area of Conservation (SAC) designation of the River Derwent, subject to mitigation. These conclusions reflect the 'Appropriate Assessment' under the Habitat

Regulations. Biodiversity gain can be secured by an s106 legal agreement.

- Heritage

The proposed development would not harm the setting of the nearby listed buildings and the character and appearance of the St. Michael's Conservation Area would be preserved. The proposal complies with policy S27 of the ALPP1.2014.

- Flood Risk and Drainage

The site is in flood zone 1, the area at least probability of flooding and sequentially the preferred location for development. Drainage infrastructure requirements can be secured by an s106 legal agreement.

Following member discussions, Councillor A Daniels proposed to approve the application as per officer recommendations.

Councillor T Annison seconded the motion.

A vote was taken: 5 voted in favour of approval and 4 against.

The motion in favour of approval was carried.

Decision

Approved subject to S106 and verification of any required screening from Natural England re nutrient neutrality.

Conditions

Time Limit:

1. **The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**
Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990.

In Accordance:

2. **The development hereby permitted shall be carried out solely in accordance with the following plans:**
 - **Amended application form 19/11/21 re applicant**
 - **104B Site Access**
 - **07714-SPACE-00-GF-DR-A-01-0001-S3-P1 Ground Floor**
 - **07714-SPACE-00-RF-DR-A-02-0001-S3-P1 Roof**
 - **07714-SPACE-00-XX-DR-A-02-0001-S3-Rev P3 Elevations 20/10/20**

- 07714-SPACE-00-XX-DR-A-90-0001-S3-P4 Site Location Plan
- 07714-SPACE-00-XX-DR-A-91-1008-S3-P4 Boundary Treatment
- 07714-00-XX-DR-A-91-1001 S3 Rev P16 Site plan
- Dwg AMS TPP Rev C Arboricultural method statement
- AMS TPP Rev C Tree protection plan
- AIA TPP Rev C Tree protection plan
- Arboricultural impact assessment report Rev C
- Ground Investigation report (July 2016)
- SK0001 Rev C Drainage Strategy Plan.
- Noise assessment
- Ecological Impact Assessment. Rev H 19/11/21
- Stage 1 HRA screening and stage 2 Appropriate Assessment Rev I 10/01/22
- Flood Risk and Drainage Impact Assessment ref 2019051 Rev D dated August 2019
- Phase II Geo Environmental site investigation and risk assessment 21/12/21
- Letter (Portland consultant engineers) 2019051-mg-001a (0003) re ground improvements 21/12/21
- Predicted vibration levels specification sheet 10/02/21
- Biodiversity assessment to demonstrate net gain 3/2/21
- DWG 01 Proposed Lighting layout 18/05/21
- DWG 00 car parking lighting 18/05/21
- Lidl CB data sheets 6m lighting column (Ref. TB061)
- Travel Plan
- 4251-MP-00-00-DR-S-0110-S2 REV P01 Foul water drainage general arrangement Amended 8/7/21
- Lidl CB data sheets
- Tree planting guidelines
- MAN.1234.001.LD.45.001 Rev A Planting plan (1 of 2)
- DWG 16-1093-201 Rev C General arrangement (highway works)
- 002 Rev C External works layout 20/10/20
- E-mail re 27/11/19 re drainage
- Landscape and management Ecological Management plan Rev A Feb 2022

Reason: In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

Pre-commencement conditions:

3. No part of the development hereby permitted shall be constructed until the approved protective fencing outlined on drawing Dwg AMS TPP Rev C Tree Protection Plan (AMS TPP Rev C), has been implemented prior to the commencement of the development and maintained at all times during the construction period.

Reason: To ensure the retention of existing protected important trees on the site in compliance with Policy DM17 of the Allerdale Local Plan (Part 1) 2014.

- 4. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include the following:**
- a) Traffic Management Plan to include all traffic associated with the development, including on-site parking and turning facilities for site and staff traffic and demolition and construction access details;**
 - b) Procedure to monitor and mitigate noise from the construction including monitoring and accounting for noise from vehicles, deliveries. All measurements should make reference to BS7445.**
 - c) Mitigation measures to reduce adverse impacts on residential properties from construction compounds including visual impact, noise, and light pollution;**
 - d) A written procedure for dealing with complaints regarding the construction or demolition;**
 - e) Measures to control the emissions of dust and dirt during construction and demolition;**
 - f) Programme of work for Demolition and Construction phase;**
 - g) Hours of working and deliveries;**
 - h) Details of lighting to be used on site. The approved statement shall be adhered to throughout the duration of the development.**
 - i) No piling operations shall be undertaken at the site without the written consent of the local planning authority.**
 - j) Details of lighting to be used on site.**
 - k) Surface surface water management plan including appropriate flooding and pollution prevention guideline measures to include biosecurity, materials and machinery storage, and mitigation for the control and management of noise, dust, surface water run-off and waste to protect the River Derwent and any surface water drains from sediment, and pollution from cement or fuel.**

The approved statement shall be adhered to throughout the duration of the construction phase of the development.

Reason: In the interests of general local amenity and in the interests of safeguarding ecological interests and biodiversity, safeguard against flooding the to the suuroounding sites and to safeguard agianst pollution of surrounding watercourses and drainage systems in compliance with Policy S29, S32 and S35 of the Allerdale Local plan (Part 1) 2014.

- 5. Prior to the commencement of works, details of the finished floor level of the retail building hereby approved shall be submitted to and approved by the local planning authority. The development shall be implemented in accordance with the approved details.**

Reason: To minimise the risk of flooding in the locality of the site to accord with policy S29 of the Allerdale Local Plan Part 1 2014

6. **The carriageway, footways, footpaths, cycleways etc. shall be designed, constructed, drained to a standard suitable for adoption and, in this respect, further details, including longitudinal/cross sections, shall be submitted to the Local Planning Authority for approval before work commences on site. No work shall be commenced until a full specification has been approved. Any works so approved shall be constructed before the development is complete.**

Reason: To ensure a minimum standard of construction in the interests of highway safety in compliance with Policy S22 of the Allerdale Local Plan (Part 1) 2014.

7. **Full details of the surface water drainage system (incorporating SUDs features as far as practicable) and a maintenance schedule (identifying the responsible parties) shall be submitted to the Local Planning Authority for approval prior to development being commenced. The details will demonstrate that no flooding will occur on any part of the site for a 1 in 30 year event unless designed to do so, flooding will not occur to any building in a 1 in 100 year event plus 30% to account for climate change, and where reasonably possible flows resulting from rainfall in excess of a 1 in 100 year 6 hour rainfall event are managed in conveyance routes (plans of flow routes etc). The submitted drainage details shall be carried out (in accordance with principles set out in the submitted Flood Risk and Drainage Impact Assessment ref: 2019051 Revision D dated August 2019 proposing surface water discharging into watercourse written by Portland Consulting Engineers. Any approved works shall be implemented prior to the development being completed and shall be maintained thereafter in accordance with the schedule.**

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. To ensure the surface water system continues to function as designed and that flood risk is not increased within the site or elsewhere in compliance with policy S29 of the Allerdale Local Plan (Part 1) 2014.

Post-commencement/Pre use commencing conditions:

8. **The development shall be implemented solely in accordance with Para 7 “Advice and recommendations “of the Phase II Geo Environmental site investigation and risk assessment 21/12/21 and a verification report submitted to and approved in writing by the Local Planning Authority, prior to the development being brought into operational use.**

Reason: To minimise any risk during or post construction works arising from any possible contamination from the development to the local environment, in compliance with the National Planning Policy Framework and Policy S30 of the Allerdale Local Plan (Part 1), 2014.

9. **In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority. Development on the part of the site affected must be halted and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These shall be implemented prior to the development (or relevant phase of development) being brought into use. All works shall be undertaken in accordance with current UK guidance, particularly CLR11.**
Reason: To minimise any risk arising from any possible contamination from the development to the local environment in compliance with the National Planning Policy Framework and Policy S30 of the Allerdale Local Plan Part 1, 2014.
10. **The approved lighting details under DWG 01 Proposed Lighting layout 18/05/21, DWG 00 car parking lighting 18/05/21 and Lidl CB data sheets 6m lighting column (Ref. TB061) shall be implemented prior to the commencement of the use of the store and shall not depart from those levels which are specified in the approved details.**
Reason: To safeguard the amenity of nearby residential properties and minimise the impact of the works on the ecological value and species of the River Derwent's watercourse, in compliance with the National Planning Policy Framework and Policy S32 and S35 of the Allerdale Local Plan Part 1, 2014 and Policy SA49 and SA52 of the Allerdale local plan (Part 2)
11. **The approved operational retail use of the development hereby permitted shall not commence until the approved means of enclosure details outlined on Dwg 07714-00-XX-DR-A-91-1008-S3-P4 - Boundary Treatment Plan, have been constructed. These details shall be retained at all times and no part thereof shall be removed without the prior consent of the Local Planning Authority.**
Reason: To ensure a satisfactory standard of development which is compatible with the character of the surrounding area in compliance with Policy S33 and DM14 of the Allerdale Local Plan (Part 1).
12. **A full specification for all the fixed refrigeration and ventilation plant for the retail A1 units including octave band data, its location and any necessary mitigation shall be submitted to and approved by the Local Planning Authority prior to any construction works above plinth level. The development shall be implemented solely in accordance with the approved details prior to the commencement of the use and retained at all times thereafter.**
Reason: To safeguard the amenity of nearby residential properties, in compliance with the National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), 2014.
13. **All planting, seeding or turfing comprised within the approved scheme Dwg MAN.1234.001.L.D.45.001.P4 Planting Details Rev P4**

shall be carried out in the first planting season following completion of the development, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to enhance the appearance of the development and minimise the impact of the development in the locality in compliance Policy S33, S35 and DM14 of the Allerdale Local Plan Part 1 2014. and policies S49 and SA52 of the Allerdale local plan (Part 2)

- 14. Foul and surface water shall be drained on separate systems.**
Reason: To secure proper drainage and to manage the risk of flooding and pollution and to accord with policy S29 of the Allerdale Local Plan Part 1 2014.
- 15. Development shall not start trading until the approved pedestrian crossing has been implemented in accordance with the approved details on Dwg 16-1093-201 Rev C Access General Arrangement and shall thereafter be retained for the lifetime of the development.**
Reason: In the interests of pedestrian safety and in compliance with the National Planning Policy Framework and Policy S22 of the Allerdale Local Plan (Part 1), 2014.
- 16. The development shall not be brought into use until the visibility splays and access arrangement providing clear visibility as shown on plan 16-1093-201 Rev C Access General Arrangement are provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, or object of any kind shall be erected or placed and no trees, bushes or other plants which exceed 1m in height shall be planted or be permitted to grow within the visibility splay which obstruct the visibility splays.**
Reason: To ensure an acceptable standard of highway access during the construction and operational use of the site, in compliance with the National Planning Policy Framework and Policy S22 of the Allerdale Local Plan (Part 1), 2014.
- 17. Within 6 months of the development (or any part thereof) opening for business, the developer shall prepare and submit to the Local Planning Authority for their approval an updated Travel Plan which shall identify the measures that will be undertaken by the developer to encourage the achievement of a modal shift away from the use of private cars to visit the development to sustainable transport modes in accordance with the principles of Chapter 7 of the Cora Travel plan document dated August 2019 . The updated plan shall include details of an annual report reviewing the effectiveness of the Travel Plan and including any necessary amendments or measures. The measures identified in the Travel Plan shall be**

implemented by the developer within 12 months of the development (or any part thereof) opening for business.

Reason: To aid in the delivery of sustainable transport objectives in compliance with policies S2 and S22 of the Allerdale Local Plan (Part 1) 2014.

- 18. The access roads, parking areas etc shall be designed, constructed, drained and lit, to the satisfaction of the Local Planning Authority and in this respect full engineering details, shall be submitted for approval before construction works commence above ground level. The use shall not be commenced until such access and parking/servicing areas and pedestrian access routes have been constructed in accordance with the approved plans. All such provision shall be maintained for as long as the use continues and shall not be removed or altered thereafter, without the prior consent of the Local Planning Authority.**

Reason: To ensure a minimum standard of access and public safety/security when the development is brought into use and is retained thereafter in compliance with policies S2 and S22 of the Allerdale Local Plan (Part 1) 2014.

- 19. The application sites retail A1 unit hereby approved shall not exceed 1004 m² floorspace for the sale of convenience goods and 252m² for comparison goods without the written consent of the Local Planning Authority.**

Reason: To safeguard the vitality and viability of the town centre, in compliance with Policies S16 of the Allerdale Local Plan (Part 1) 2014.

- 20. The development shall be implemented solely in accordance with the mitigation and recommendations outlined in Section 4 and 5 of the Enzygo Ecological Impact Assessment. Rev H 19/11/21.**

Reason: To safeguard the habitat of protected species in compliance with the National Planning Policy Framework and Policy S35 and DM17 of the Allerdale Local Plan (Part 1) 2014.

- 21. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Flood Risk and Drainage Impact Assessment ref: 2019051 Revision D dated August 2019 proposing surface water discharging into watercourse written by Portland Consulting Engineers, as amended by the foul drainage connection plan 4251-MP-00-00-DR-S-0110-S2 REV P01 Foul water drainage general arrangement Amended 8/7/21. No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul shall be agreed in writing by the Local Planning Authority prior to the commencement of the development. The development shall be completed in accordance with the approved details.**

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding

- 22. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:**
- 1. A site investigation scheme, based on the desk study 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 the 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 written consent of the local planning authority. The scheme shall be implemented as approved.**

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

The meeting closed at 2.20 pm