

**Allerdale Borough Council**

**Planning Application FUL/2020/0098**

**Development Panel Report**

**Reference Number:** FUL/2020/0098  
**Valid Date:** 20/05/2020  
**Location:** Greggains Garage Curzon Street Maryport  
**Applicant:** Maryport Assets Ltd  
**Proposal:** Partial demolition and change of use of garage/depot to retail store (A1 Use) with associated parking, loading platform and plant area

**RECOMMENDATION**

**Grant permission subject to conditions**

**1.0 Summary**

| <b><u>Issue</u></b>                        | <b><u>Conclusion</u></b>  |
|--|---|
| Principle of Development                   | The proposal will see the redevelopment and reuse of a dilapidated building for retail use. The size of the proposed site is commensurate to the size of the settlement of Maryport as a Key Service Centre in line with policy S3 and S5 of the Local Plan.  |
| Sequential Test / retail impact assessment | <p>The proposal lies just beyond the defined town centre and is considered as edge of centre development as defined by the NPPF. Officers are satisfied that a comprehensive sequential test has been carried out that demonstrates there is not a suitable, available site within the town centre boundary or a preferable out-of-centre location.</p> <p>When taking into account the previous retail capacity of the town, officers consider Maryport can accommodate a further retail store without significant impacts on the vitality and viability of the town centre.</p> <p>The proposal complies with the NPPF and policies S16, and DM8 of the Allerdale Local Plan.</p> |

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| Protection of Employment Sites | The proposal site has not been allocated as a protected employment site within Part 2 of the Local Plan. Officers consider the proposal would provide a level of employment to the area and the criteria with Policy DM3 have been met.  |
| Design and Highway Issues      | The proposed works will enhance the building and the character and appearance of the wider Conservation Area. Parking is proposed to the rear and side of the premises with improved access directly from Curzon Street. The applicant has demonstrated that adequate inter-visibility between pedestrians and vehicles can be achieved at the site along with deliveries. The proposal is considered to comply with Policies S4, S5, S27, S32, DM14 and DM15 of the Local Plan. |
| Flood Risk                     | The applicant has fully considered the impacts of Flood Risk and it has been demonstrated that the site can accommodate the proposal without exacerbating flood risk elsewhere in line with Policies S2 and S29 of the Local Plan. The sequential approach in terms of food risk has been satisfied.   |

## 2.0 Proposal

- 2.1 The proposal seeks to demolish parts of the existing garage building, comprising the entirety of the northern bay facing Curzon Street, the entirety of the two lower, pitched-roof sections at the rear, and the entirety of the flat-roofed section to the south. This will allow the two bays in the central part of the building, to be converted to form an A1 retail store (now falling within Class E).
- 2.2 Externally, the northern bay will be replaced with eight customer parking spaces (including two disabled spaces), and 14 spaces will be provided to the rear of the building along with space for goods vehicle deliveries.
- 2.3 The new store is expected to sell predominately convenience goods.
- 2.4 The Plans for consideration are:-
- 0402(P)010 Rev A Location Plan  
(PL)001 Rev G Proposed Site Plan and Location Plan (amendment received 1 October 2020)  
(PL)002 Rev D Proposed Elevations (amendmet received 5 June 2020)  
(PL)003 Rev C Proposed Elevations (amendments received 5 June 2020)

(PL)004 Rev A Proposed GF Plan & Roof Plan (amendments received 5 June 2020)  
(PL)005 Proposed Section AA (amendment received 5 June 2020)  
SD18133-03 ground Floor Plan (Demolition)  
C3246-HEC-ST-XX-DR-96-1001 Rev P3 Proposed External Services Layout (amendment received 18 March 2020)  
70071727 SK01 011020 Revision A Additional Swept Path Assessments (amendment received 1 October 2020)  
External Lighting Report received 8 June 2020  
Updated Retail Statement August 2020  
Additional Sequential Test Assessment received 9 April 2021  
Additional Sequential Test – Sale particulars received 9 April 2021  
Employment Policy Update (amendment received 7 July 2020)  
Heritage, Design & Access Statement  
Ecological Statement; Small Blue Butterfly June 2018  
Preliminary Ecological Appraisal January 2019  
Second Addendum - Bat Survey Dated 11 May 2020  
Flood Risk Assessment April 2020  
Arboricultural Impact Assessment with Tree Protection Measures  
Environmental Noise Impact Assessment July 2018  
Phase One Environmental Desk Study report June 2018  
Transport Statement April 2020  
Email received 5 June 2020  
Trisomet External roof and wall panel system (amendment received 5 June 2020)

The suite of documents can be found on-line at:-

<https://allerdalebc.force.com/pr/s/planning-application/a3X3X000004DEzvUAG/ful20200098>

### **3.0 Site**

- 3.1 The Greggain's Garage dates from the mid-twentieth century. The building sits behind a short forecourt fronting directly onto Curzon Street, to the south of Maryport town centre.
- 3.2 The building comprises a single unit with a brick and render warehouse featuring three tall bays with pitched roofs and gables fronting the street. On the south side, bounding the River Ellen, is a two storey flat roofed office block, level with the eaves of the warehouse. The building has become increasingly dilapidated in recent years.
- 3.3 The application site is bounded by Trinity Baptist Church to the north and by residential properties fronting Station Street/Selby Terrace to the north-east. A narrow driveway serving the rear yard also has rights of way over it for the owners of these houses to reach their gardens to the rear. The bank of the River Ellen forms the southern boundary of the site which is lined with protected (TPO) trees.

- 3.4 On the western side of Curzon Street are terraced houses, several of which have shops at ground floor level. A B&M Homestore (former Co-op supermarket) lies immediately opposite. To the south, over the river, are a petrol filling station with a local convenience store (Spar) and more recently built supermarket (Lidl).
- 3.5 The site lies within the Maryport Conservation Area which encompasses the whole of the town centre and the central part of the town, extending to the southern bank of the river, immediately opposite the application site.

#### **4.0 Relevant Planning History**

- 4.1 2/2018/0514 Demolition of garage/depot and erection of retail store (A1 use) with associated parking and first floor staff storage areas – Withdrawn due to costs associated with diverting a public sewer that runs through the site.

#### **5.0 Representations**

##### **Town Council**

- 5.1 The Council has concerns with access for residents, ingress & egress arrangements, impact of deliveries on vehicular usage of A596, overprovision of retail facilities in immediate area & consequent impact of vehicles accessing & egressing car parks to either side of A596 in a busy area with bus stops in vicinity. Potential for inappropriate use of Mealpot Road by delivery vehicles.

##### **ABC Environmental Health**

10.06.2020

- 5.2 Environmental Health believe the submitted lighting layout is acceptable. Please mark any relevant pre commencement condition as satisfied regarding the lighting scheme. We recommend that this scheme be fully implemented.

22.05.2020

- 5.3 We have reviewed the report for noise and land contamination and I would recommend conditions be attached to any approval.

##### **Cumbria County Highways**

19.10.2020

- 5.4 There were a number concerns highlighted in previous comments by the highway authority which have been addressed by the applicant.
- 5.5 Further swept path analysis has been undertaken using a refuse wagon which reflects those used by the local authority, further swept paths have been supplied to demonstrate that articulated HGV's up to 14.25 can manoeuvre within the site/

The applicant has proposed that delivery vehicles will not exceed 10.3m and that this would be secured through a perpetual condition requiring a Delivery Management Plan. This should also include details and method statement of how larger vehicles will be managed through the site whilst delivering and unloading as larger HGV's will require parking bays to be coned off to carry out manoeuvres and supervision by onsite staff. We would recommend your authority seeks to secure the above with a suitable condition.

- 5.6 Issues highlighted of inter-visibility of pedestrians and vehicles in relation to the back lane of Station Street have been addressed, the initial proposal to install a bollard and build out has been amended to a smaller kerb build out and parking spaces re-aligned to create a refuge opposite at the corner for pedestrians to use, the adjacent boundary wall will be reduced in height to 600mm allowing for better inter-visibility of pedestrians and vehicles entering and leaving the parking spaces which is welcomed by this authority.
- 5.7 Parking adjacent to the access road has been re-aligned allowing the width of the carriageway to increase and this will become dedicated highway as part of a S278 (of the Highways Act) Agreement. Alterations of road markings and full height kerbs at the frontage of the A596 will also be secured through a S278 agreement.
- 5.8 The Highway Authority has no objections to the proposed development subject to conditions.

#### **Cumbria County Council Lead Local Flood Authority (LLFA)**

- 5.9 The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy and developments are required to consider the following drainage options in the following order of priority:
1. Into the ground (infiltration);
  2. To a surface water body;
  3. To a surface water sewer, highway drain, or another drainage system;
  4. To a combined sewer
- 5.10 Infiltration has been discounted as a viable method of surface water discharge in favour of discharge to a surface water body. Given the close proximity to the River Ellen, the site is within Flood Zone 3, finished floor levels are to be increased to mitigate possible flooding and consultation with the Environment Agency has been conducted. Permeable paving is to be used within the parking areas to attenuate surface water allowing a discharge rate of 1.5l/s.
- 5.11 Therefore the LLFA has no objections to the proposed development subject to conditions.

## **Environment Agency**

### Previous Use – Contaminated Land

- 5.12 The previous use of the proposed development site as a former commercial vehicle sales and repair garage presents a medium risk to pollution of controlled waters from contaminant mobilisation during construction. The Phase One Environmental Desk Study Report by Subadra dated June 2018 and referenced CP18175 CL 001 demonstrates that it will be possible to manage the risks posed to controlled waters by this development.
- 5.13 Further detailed information will however be required before built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local authority.
- 5.14 In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 178 of the National Planning Policy Framework. Without this condition we would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

### Flood Risk

- 5.15 The planning application is accompanied by a Flood Risk Assessment (FRA) prepared by Waterman, reference WIE 14386-100-R-2-3-3-FRA, dated April 2020. We have reviewed the FRA in so far as it relates to our remit and we are satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented.
- 5.17 The proposed development must process in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved FRA and /or the mitigation measures identified will require the submission of a revised FRA.

## **Fire Authority**

- 5.18 No objections. Note to applicant regarding the inclusion of a sprinkler system within the design of the premises.

## **Natural England**

- 5.19 No comments to make on this application.

## Other representations

5.20 The application has been publicised by press advert, site notice and neighbour letters. Two letters have been received the comments from which can be summarised as follows:-

- a) Welcome the regeneration of the site as outlined in the plans submitted, but have a few concerns that the location of the car park might invite an element of antisocial behaviour/access to non-residents to the existing rear space behind the properties. This can be in the form of non-residents using this area to park rather than the proposed car park, littering, impact on bin collections, noise disturbance from deliveries.

5.21 A further eight objections letters have been received for the followings reasons:

- a) Failure to demonstrate compliance with the sequential test which local planning authorities should apply to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan.
- b) Failure to carry out an adequate impact assessment which local planning authorities should require for assessing planning applications for retail and leisure development (over a locally set floor space threshold) outside town centres and not in accordance with an up-to-date plan. The application glosses over key policy tests by providing an incomplete and insufficient sequential test, and fails to carry out an impact assessment which must also address cumulative effects. The case to demonstrate that the proposed development is justified outside the boundary of Maryport town centre in terms of demonstrating compliance with the sequential test approach to site selection, and providing clear evidence that it will not have an individual or cumulative significant adverse impact on the vitality and viability of the centre, is not made.
- c) Failure to consider Policy DM3 of the Allerdale Local Plan which seeks to protect employment sites.
- d) Failure to demonstrate that the planning application will not have an adverse impact on highway safety on the adjacent access road and within the site.
- e) The development has not demonstrated the site can accommodate 16.5m long articulated vehicles in their fleet and could therefore potentially lead to servicing from Curzon Street itself or reversing into the site from Curzon Street. Both would raise potential operational and road safety concerns/issues.
- f) Access for residents will be seriously impacted with potentially the lane been blocked or used for parking.
- g) Collection of refuse impacted as bins have to be brought out to the end of land which meets up with the proposed road to the car park.
- h) Is another convenience store required?
- i) Anti-social behaviour
- j) Noise from delivery trucks, car movements

- k) Pedestrian safety when walking from the rear of the residential properties if the lane is now used as the access.
- l) Reduction in market value of properties.
- m) Loss of view and disturbance to the nearby residential properties.

## **6.0 Environmental Impact Assessment**

- 6.1 With regards to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 the development does not within Schedule 1 nor 2 and, as such, is not EIA development.

## **7.0 Duties**

- 7.1 The site is within the Maryport Conservation Area. Section 72(1) of the Listed Buildings Act 1990 states that, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

## **8.0 Development Plan Policies**

### **Allerdale Local Plan (Part 1)**

- 8.1 The site is an edge of centre of location outside of the defined town centre. It is also within a conservation area and the proposal is for a retail (main town centre) use. The following policies are considered relevant:-

- S1 Presumption in Favour of Development
- S2 Sustainable Development
- S3 Spatial Strategy and Growth
- S4 Design Principles
- S5 Development Principles
- S6b Area based Maryport
- S16 Town Centre and Retail
- S22 Transport Principles
- S27 Heritage Assets
- S29 Flood Risk and Surface Water Drainage
- S30 Reuse of Land
- S32 Safeguarding Amenity
- S35 Protecting and Enhancing Biodiversity and Geodiversity
- DM8 Protecting Town Centre Vitality and Viability
- DM14 Standards of Good Design
- DM15 Extensions and Alterations to Existing Buildings and Properties
- DM17 Trees, Hedgerows and Woodland

## **Allerdale Local Plan (Part 2)**

- 8.2 The site is within Maryport's settlement boundaries. The following policies are considered to apply;-

Policy SA2 Settlement Boundaries  
Policy SA33 Broadband  
Policy SA46 Retail and Town Centres

### **9.0 Other material considerations**

#### **National Planning Policy Framework (NPPF) (2019)**

- 9.1 Section 7 of the NPPF is titled 'Ensuring the vitality of town centres'. Paragraph 85 states that planning policies and decisions should support the role that town centres play at the heart of local communities.
- 9.2 Paragraph 80 advises that "planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development".
- 9.3 Paragraph 86 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 town centre sites be considered.
- 9.4 Paragraph 89 advises that, when assessing applications for retail 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. This should include assessment of:-
- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
  - b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).
- 9.5 Paragraph 212 advises that the policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Paragraph 213 advises that existing development plan policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be

given to them, according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

## **10.0 Policy weighting**

- 10.1 Notwithstanding the duties detailed above, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. This means that the Allerdale Local Plan (Part 1) 2014 and Allerdale Local Plan (Part 2) 2020 policies have primacy.
- 10.2 The NPPF is afforded weight as a material consideration, but in the context of paragraph 213 of that Framework, the development plan policies are considered to have a high degree of consistency its content. The development plan policies are therefore afforded full weight in this instance. Indeed, there are no material considerations in this instance which would result in a decision being made contrary to the development plan.

## **11.0 Assessment**

### **Principle of development**

- 11.1 Maryport is identified as a Key Service Centre in the settlement hierarchy under Policy S3 of the Allerdale Local Plan. Subject to certain criteria, Policy S5 indicates that new development will be concentrated within the physical limits of such locations, providing that the scale of the development proposed is commensurate to the size of the settlement and reflects its position within the hierarchy overall. Where available, and if appropriate, the Council will also encourage and prioritise the effective reuse of previously used land and buildings or vacant and underused land, as identified by Policy S30.
- 11.2 Policy S16 advises that the Council will promote the vitality and viability of town centres within the Plan Area by encouraging a diverse mix of uses in high quality environments which attract a wide range of people at different times of the day, and which are safe and accessible to all.
- 11.3 Policy DM8 advises that proposals for main town centre uses will be approved within the town centre boundaries. Applications for these uses, or extensions of existing uses outside of the defined centres will be refused where the applicant had not demonstrated compliance with the sequential approach to site selection as set out in national policy.
- 11.4 The proposal seeks to redevelop and reuse a redundant building within the settlement boundaries for Maryport. The size of the site proposed is considered to be commensurate to the size of the settlement and the role of Maryport as a

Key Service Centre within the hierarchy, in accordance with Policy S5. The reuse of this site is therefore in accordance with Policies S5 and S30 of the Allerdale Local Plan.

- 11.5 The current proposal is for a retail store (Class E use). The retail unit will provide a new sales area of approximately 400sqm including storage and staff facilities. The sales area will extend to no more than 280sqm and is expected to be predominately convenience goods (everyday essential items, such as food. Whether the impact of the proposed retail store is considered to be appropriate for Maryport in terms of protecting the vitality and viability of the town centre will be assessed below.

### **Sequential test for town centre uses**

- 11.6 Whilst the application site does not fall within Maryport town centre boundary, the site does lie directly opposite the town centre boundary, which includes the buildings fronting Curzon Street and the existing B & M Store that fall on the far side of the A596 from the proposal site. Furthermore, the commercial site of the Spar convenience store and garage lies to the west of the site. Therefore the proposal is considered to be edge of centre development as defined in the NPPF. Annex 2: the Glossary within the NPPF defines Edge of Centre as “For retail purposes, a location that is well connected to, and up to 300 metres from, the primary shopping area.” The proposal sites lies approx. 90m from the Primary Retail Frontage as defined in Figure 5-2 of the Allerdale Local Plan (Part 1), Adopted July 2014.
- 11.7 Planning Practice Guidance states that the application of the sequential test will need to be proportionate and appropriate for the given proposal. It goes on to set out a checklist of considerations that should be taken into account when determining whether a proposal complies with the sequential test. This can be summarised as follows:
- a) Whether, with regard to the requirements to demonstrate flexibility, the suitability of more central sites to accommodate the proposal has been considered? Where a proposal would be located in an edge or out-of-centre location, preference should be given to accessible sites that are well connected to the town centre.
  - b) Whether there is scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a sequentially preferable 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.
  - c) If there are no suitable sequentially preferable locations, the sequential test is passed.
- 11.8 As the application site is located immediately adjacent to the town centre, it is appropriate to consider in-centre sites and any alternative edge-of-centre sites that may be better related to the town centre and more accessible than the application site at Curzon Street.

- 11.9 As identified within the applicant's sequential test assessment, there is a vacant site at the harbour side, adjacent to Brunswick House, this currently comprises a grassed area of 0.25ha. Officers note that the site is within the boundary of the town centre but approximately 120 metres to the west of the primary shopping frontages. As such this is considered to be an edge-of-centre site for the purposes of the retail sequential test. The applicant has considered both the availability and suitability of the site at the Harbourside and have discounted this site as not being suitable or viable for retail use. The site is not being actively marketed but its owners confirm that it is available for development. In terms of suitability, the applicant's Updated Retail Statement (URS) notes that the site is sufficient size to accommodate a similar convenience store to that proposed at the application site. However, it notes that the existing access (via the harbourside driveway) is subject to a number of restrictions and creating alternative access from the public highway would involve third party land. It is likely that customer and HGV traffic would need to pass through the car park at Irish Street resulting in the loss of public car parking.
- 11.10 The URS goes on to raise flood risk issues (the site being immediately adjacent to Flood Zone 3) and potential implications in terms of design and access. It also flags potential abnormal costs associated with the previous uses of the site and the need for site remediation. Officers note that the applicant has made enquiries of other potential retail operators and although their responses do not go into specific details, we note that three alternative retail operators have confirmed that they would not be interested in the land at the harbour side.
- 11.11 Your officers commissioned an independent peer review by Urban Agile to test the assumptions, analysis and conclusions of the applicant's sequential assessment. Urban Agile confirm that the potential constraints identified by the applicant are robust and reasonable and would significantly restrict the redevelopment of the site at the harbour side for the proposed use. In particular access is significantly constrained and will compound the commercial disadvantages of the site in terms of its lack of prominence, limited potential to attract passing trade and distance from other retail facilities within the town centre. Whilst the applicant has provided no clear evidence of the implications of flood risk and potential ground contamination on the redevelopment of the site, Urban Agile accept that there is a realistic chance that one or both issues could impact on the feasibility of its development for the proposed use. These constraints would exist even if the applicant were to adopt a significant degree of flexibility in terms of the scale and format of the application scheme. Urban Agile therefore conclude that whilst the site is evidently available, it would not be suitable for the proposed development
- 11.12 Members are also advised that the Local Plan (Part 1) undertook a review of the Maryport Town Centre boundary which resulted in the boundary being extended to include the harbourside. It has been a long standing ambition of the council to capitalise on Maryport's visitor potential which includes the harbour area. The review of the town centre boundary to include the harbour aims to attract a wider range of leisure and town centre uses to complement the primary shopping area and draw visitors across the bridge to the harbour. Policy S6b of the Local Plan Part clearly sets this intention out:-

“the new town centre boundary bridges the gap between the traditional shopping area of the town and the harbour side where there will be allocated land for new leisure and cultural facilities”

“Secure designated secondary frontage between the primary retail area of Senhouse Street and the harbour bridge where a wider range of town centre uses such as restaurants, cafes and offices will be encouraged and protected and which will draw visitors from the upper town centre down to the marina area”

- 11.13 The Allerdale Local Plan Part 2 was adopted in July 2020 and Policy SA32 promotes new, improved and replacement tourism attractions and facilities within and adjacent to key service centres. Further it supports key tourism projects which have transformational potential to significantly improve the social and economic prosperity of the area at locations including Maryport Harbour.
- 11.14 Developing the harbour side sites for a retail use is not part of this vision of complementary uses and is another reason why this area beyond the River Ellen can be discounted.
- 11.15 Finally with regards to the harbour side, Urban Agile note that it is further from the primary shopping frontages of Maryport Town Centre than the application site. Both the NPPF and the Planning Practice Guidance state that when considering edge-of-centre sites, preference should be given to accessible sites that are well connected to the town centre. With this requirement in mind, Urban Agile do acknowledge the applicant’s argument that the application site could be considered to be sequentially preferable to the land at the harbour side.
- 11.16 Urban Agile, within their response, also considered the potential of vacant units within the town centre and development sites identified within the Maryport Regeneration Scheme. Vacant units have also been identified as part of their own visit to the town centre and through searches of key commercial property websites. The opportunities identified within the Maryport regeneration Scheme are as follows:
- a) Empire Yard – proposed to be used as a space for markets and events, together with small-scale food and drink uses.
  - b) The Carlton – relocation of the theatre facilities from the wave with potential for workspaces for small businesses.
  - c) Christ Church – reuse of the vacant church building for a museum and gallery.
- 11.17 Urban Agile have assessed these sites and comment that, notwithstanding the conflict with the proposals set out within the regeneration scheme, both the Empire yard and The Carlton are located on Senhouse Street within the primary shopping frontage and are therefore sequentially preferable to the application site. The Empire Yard scheme primarily creates a covered public space and the existing site between Senhouse Street and John Street appears, in its current form, to be neither available nor suitable for the proposed use.

- 11.18 The Carlton has been marketed by Walton Goodland on a freehold basis but is now listed as being sold. Notwithstanding the availability of this site, it is likely to be unsuitable for the proposed development given its previous use; it was characterised by a single auditorium space but this was lost during a previous conversion and it now includes many structural subdivisions and changes in level.
- 11.19 The former Christ Church on King Street is edge-of-centre site in retail terms. It does not appear to be available (it is not currently on the market) and is Grade II Listed. There are examples of listed Victorian churches that have been converted to convenience retail stores around the country. However, this example is rather constrained by its siting abutting dwelling houses on two sides with no real scope for suitable servicing. It is also unlikely that the Nave, in this instance, could sensitively be transformed into a retail sales floor.
- 11.20 Urban Agile also identified an additional available at 60-62, Senhouse Street. Given that the site has only been marketed since early 2021 it was not considered as part of the applicant's sequential assessment. The Council have therefore provided the applicant the opportunity to consider this site. The applicant notes that the ground floor area equates to 375 sq metres (in contrast to the 280 sqm proposed by their scheme), a further 246sqm at basement level for storage area and 16 sqm at first floor accommodation. This equates to a floorspace area of 640sqm in total. The size of the proposed floorspace at the proposed site is 400sqm which includes the storage area. Due to the narrow width of the building it could not be easily subdivided. The applicant highlights that the size of the store is 150% larger than that proposed and is therefore far bigger than what is required by the applicant and significantly above the 280sqm sales area which is restricted to this by the Sunday Trading Act.
- 11.21 In addition to the floorspace the applicant has identified that the premises does not have on-site customer parking. Whilst they acknowledge that short-stay on-street parking is available in the vicinity of the site, they highlight that they and other convenience store operators aim to provide around 15-20 dedicated on-site customer parking spaces for a store of the proposed site.
- 11.22 Members are reminded that flexibility of format and scale should be considered when applying the sequential test. In this context, it is noted that the size of the premises at 60-62 Senhouse Street is larger than the needs of the applicant and could not be easily divided. Given the floorspace of 640sqm, this would fail to meet the Sunday Trading Rule that prevents sale of goods from retail premises of this scale over a maximum of 6 hours between 10am and 6pm. Officers agree with the applicant that this could compromise the format of the type of store. As such we are of the opinion that, whilst these premises may be available they are not suitable for the proposed use.
- 11.23 In summary, officers are satisfied that the proposal meets the sequential test and there is not a suitable available site within the town centre boundary or a preferable out-of-centre location in line with Policy DM8 and the National Planning Policy Framework.

## Retail Impact Assessment

- 11.24 In turning to the retail impact assessment, Policy DM8 details that retail development up to and including the threshold for the relevant town (in this case 300sqm for Maryport) will generally be regarded as being of a scale that would not result in significant adverse impacts. Whilst the proposed sales area is only 280sqm, the overall floorspace of the proposed store is approx. 400 sqm which necessitates the need for the impact assessment.
- 11.25 As the application site is located outside the defined boundaries of Maryport Town Centre it is necessary to consider the impacts of the proposal on the relevant centres, including impacts on vitality and viability and on in-centre investment. This is in accordance with paragraphs 89 to 90 of the NPPF and Policy DM8 of the Allerdale Local Plan (Part 1), which states that planning permission should be refused for proposals that would be likely to have significant adverse impacts on the town centre.
- 11.26 The Allerdale Retail study published in 2015 forecast an increase in retention of convenience expenditure in Maryport from 17% to 28% following development of the Lidl store, but further convenience floorspace was not anticipated. It predicated a rise in discount non-food retail in smaller town centres where local convenience shopping would predominate. The applicant's impact assessment is set out at paragraphs 5.58 to 5.73 of their Updated Retail Statement (URS). The URS describes the role of the proposed Co-op store, noting that this will principally serve residents of Maryport and surrounding villages. Given the scale of the proposed store it is most likely to serve day-to-day food shopping needs and would expect it to draw the vast majority of its trade from residents within Maryport. The town centre is the only defined centre within Maryport and it is therefore appropriate to focus any assessment on that particular centre.
- 11.27 A peer review by Urban Agile has been carried out on the submitted retail statement to consider the impacts on the town centre.

### Turnover of the Proposed Development

- 11.28 The Allerdale Retail Study (July 2015) provided an overview of shopping provision in Allerdale; examined existing shopping patterns; and set out a retail capacity analysis for the Borough on a sectoral basis. The study found there to be little growth in expenditure on convenience goods in future years, although moderate growth in spending on comparison goods (non-everyday items bought on an infrequent basis e.g. clothing and white goods).
- 11.29 The applicant states that the proposed convenience store at the application site would achieve an estimated sales density of £5,000 per sqm which, based on a sales area of 265 sqm, would result in a total convenience turnover of £1.33 million. Urban Agile comment that it is unclear how the sales density figure for the proposed store has been arrived at, other than being based on the estimated turnover of the former Co-op store. Evidence from the Allerdale Retail Study (2015) indicates that the former Co-op store at Curzon Street was significantly under trading compared to company average sales density figures for that

retailer. This is unsurprising, given the previous store was significantly larger than Co-op typical trading format (which is now strongly focused on smaller, neighbourhood convenience stores) and that Co-op subsequently closed that store. However it does not follow that a new, smaller format Co-op store would similarly trade at well below the company average sales densities.

11.30 Urban Agile consider that, in view of the new investment that the retailer is willing to make in this location, it is reasonable to expect that the proposed convenience store will trade at levels that are much closer to company average sales densities. They therefore consider that, having regard to data provided by GlobalData and Mintel which is presented within the West Cumbria Retail Study (WCRS) (2020), it is more appropriate to adopt a sales density for the Co-op of approximately £10,000 per sqm, This would double the estimated convenience retail turnover of the proposed development by £2.65 million.

11.31 Nevertheless, given the sales area is only 280sqm, it is considered that this will have very little impact on the overall vitality and viability of the town centre as a whole or the existing larger retail premises within the town.

#### Trade Diversion and Trade Impacts

11.32 The applicant's URS has not sought to quantify patterns of trade diversion to the proposed development but does set out general assumptions on the basis of the principle of 'like competes with like'. Consequently, paragraphs 5.69 and 5.70 of the URS state that the Spar store at Curzon Street is likely to experience the highest levels of impact and the impact on the Maryport town centre is likely to be 'unnoticeable' given that the main town centre convenience dealer, Heron Foods, operates a different sale model focused on frozen foods.

11.33 Planning officers and Urban Agile concur with applicant's conclusions that trade diversion and impacts will be based on the principle of 'like competes with like', taking account of geographical proximity to the application site and the current market shares of existing destinations. In this case it is also important to recognise that the leakage to Workington and Cockermouth of a significant proportion of convenience retail expenditure generated by residents of Maryport (involving round trips of 12 mile or more). Indeed, these destinations account for 61% of all convenience retail expenditure available to residents of the Maryport area. Whilst the majority of these trips are for main food shops (as opposed to the 'top-up' food shopping facilities that would be provided by the proposed development), it is the case that the provision of improved convenience retail facilities within Maryport should assist in reducing this 'leakage' of expenditure to food stores in other towns.

11.34 As agreed with the Council, it was considered useful for Urban Agile to provide a high-level impact assessment in order to quantify the potential trade impacts of the proposed development. This is set out in the table below and takes account of Urban Agile's own assumptions in terms of likely turnover of the proposed store and the turnover figures for existing destinations that have been derived from the WCRS. Urban Agile assumed that the development is completed and mature trading patterns have been established by 2023. Given the very low rates

of sales density growth assumed within the WCRS, they held the turnover figures constant to 2023.

| <b>Destination</b>   | <b>Turnover in 2023</b> | <b>Trade Diversion to Proposed Co-op</b> | <b>Turnover in 2023 (With Development)</b> | <b>Trade Impacts</b> |
|----------------------|-------------------------|--|--|----------------------|
| Maryport Town Centre | £2.0m                   | £0.15m                                   | £1.85m                                     | -7%                  |
| Lidl, Curzon St      | £12.8m                  | £1.25m                                   | £11.60m                                    | -10%                 |
| Other (Maryport)     | £1.3m                   | £0.25m                                   | £1.05m                                     | -19%                 |
| Other Destinations   | £21.5m                  | £1.00m                                   | £20.50m                                    | -5%                  |

### Significance of Retail Impacts

- 11.35 As the high-level assessment of retail impacts demonstrates, the greatest percentage trade impacts (-19%) would fall on smaller out of centre facilities within Maryport. This would include the Spar store at Curzon Street which is in close proximity to the application site and provides a similar top-up food shopping facility to the proposed Co-op store. The next highest level of impacts would fall on the Lidl store at Curzon Street (-10%). This food store has, by some margin the highest market share of any convenience retail facility within Maryport. Data within the WCRS also confirms that, despite being a larger foodstore, a high proportion of the turnover of the Lidl store is generated from top-up food shopping trips. Given its proximity to the application site, it is reasonable to assume that a relatively high proportion of the turnover of the proposed development would be diverted from this store.
- 11.36 Urban Agile have also assumed that a high proportion of the turnover of the proposed development will be drawn from foodstores outside of Maryport which currently attract more than 60% of residents' convenience retail expenditure. Whilst these other stores largely cater for main food shopping trips, improved top-up food retail facilities within Maryport should help reduce the frequency of these trips and/or the amount spent, resulting in more expenditure being retained locally. As such they estimate that there would be a reduction in the volume of 'leaked' expenditure of around 5%. These other facilities in Cockermouth and Workington are almost exclusively outside of the respective town centres and, as with out-of-centre facilities within Maryport, are not afforded any policy protection in terms of trade impacts.
- 11.37 Insofar as Maryport Town Centre is concerned, officers can advise from the Urban Agile peer review that a relatively small proportion of the turnover of the proposed development will be diverted from convenience stores within the town centre. This is because facilities within the town centre are limited; the main foodstore is Herons Foods which provides a significantly different convenience retail offer to the proposed store. Nevertheless, members are advised that our own retail study (the WCRS) contains a health check of Maryport Town Centre at Appendix G that found that the town centre lacked a strong, quality retail and leisure offer, had a high vacancy rate and that a number of buildings were in a dilapidated condition, detracting from the environmental quality of the town

centre. In such circumstances, where a centre is performing relatively poorly in terms of indicators of vitality and viability, careful consideration must be given to trade impacts.

- 11.38 In this case impacts are limited due to the limited overlap between existing town centre facilities and the proposed convenience store. This is likely to be lower still due to the investment in the town centre through, for example the High Streets Fund and Heritage Action Zone. An inflow of expenditure from visitors to Maryport is expected. Furthermore, given that Maryport Town Centre has an estimated comparison retail turnover of £7.7 million, the impact of the application scheme on the combined retail turnover of the town centre would be even lower at around -2%. In summary, the application scheme is not expected to result in significant adverse impacts on the vitality and viability of Maryport Town Centre.
- 11.39 In terms of existing, committed and planned public and private investment in town centres, officers do note that the WCRS highlights the need for an anchor retail facility within the town centre and this would most likely comprise a foodstore. Further convenience retail development outside of the town centre has the potential to reduce the viability of any such development. However, at the time of the preparation of this officer's report, there are no such proposals and it is robust and reasonable to conclude that the proposed development would be likely to have significant adverse impacts on in-centre investment.

### **Protection of Employment Sites**

- 11.40 Policy DM3 contains criteria for the redevelopment of existing employment sites and establishes a sequence of preferred alternative uses. It aims to ensure that there is a sufficient supply of employment land to meet the area's economic development requirements over the plan period. Policy SA32 of the Part 2 Local Plan allocates 65.2 ha of employment land to meet the needs of new and existing business across the plan area. The proposal site has not been allocated as a protected employment site.
- 11.41 The existing garage is no longer used, having been unoccupied or used on a low-intensity basis since the former vehicle garage closed in 2012 and has since deteriorated in condition and detracts from the character of the Conservation Area.
- 11.42 Officers are satisfied that the building needs significant investment to bring it up to the need of a modern business. This is highly unlikely to be carried out if retained for the existing use. The site has not be allocated as an employment site, no market interest has been shown for its current use since 2012. The only conclusion one can reasonably reach is that its loss would not have a significant impact upon long-term supply of employment sites across the Plan Area and would not undermine the spatial strategy of the Local Plan.

11.43 Notwithstanding this point, it is also noted that the proposed retail use would still provide a level of employment to the area based on recognised employment densities.<sup>1</sup>

## **Design and Heritage**

- 11.44 Policy S4, S5, S32 and DM14 of the Local Plan Part 1 seek that new developments respond positively to the character and distinctiveness of the area whilst ensuring suitable standards of amenity are retained for existing residential properties. Policy DM15 seeks a high standard of design for proposals that involve the alteration and/or extension of existing buildings. Policy S27 of the Allerdale Local Plan seeks to safeguard, conserve and enhance heritage assets in safeguarding their significance and historic value.
- 11.45 Maryport Conservation Area covers an extensive area of many different character zones, including the “new town” grid set out by the Senhouse family and centres on Fleming Square, the historic harbour side around Shipping Brow, the town centre flanking Senhouse Street and the Victorian streets extending nearly to the railway station. The latter includes the main north-south thoroughfare of Curzon Street. It is to the latter which the site fronts. As a gateway to the conservation area and on such a highly used conduit in and out and through the town centre, the site’s development has a high potential to impact on the significance of this designated heritage asset despite its separation from the majority of the designation.
- 11.46 The existing building does not have any significant architectural or historic merit. Nevertheless, the core of the building has some attractive features, including brick quoins bordered doorways with brick arches above, which can be enhanced through the development. The proposal seeks to utilise the existing building with the removal of a single bay and the two storey flat roof part of the building. The palette of materials references though already found in the immediate area; the finishes and hues are unobtrusive and will ensure the development assimilates into the built landscape. The proposal does seek an amendment from the pressed concrete fibre roof to a Kingspan light-weight composite grey panelled roof. Given the existing roof structure of the building, it is unable to accommodate the weight of a slate roof and slate would look rather odd on this expanse of roofing anyway.
- 11.47 The enclosure that surrounds the plant equipment which fronts Curzon Street has been amended from a timber fence to a rendered wall to match the main façade of the building. The protected trees along the River Ellen’s bank will be retained. A tree protection condition is necessary during the construction phase to ensure that roots are not damaged by storage of materials or machinery.

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<sup>1</sup> Employment Densities Guide

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/378203/employ-den.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/378203/employ-den.pdf) accessed 20<sup>th</sup> May 2021

11.48 Overall, this is a commendable reuse and redevelopment of an existing building improving its visual qualities. There is no harm to the significance of the conservation area or the wider townscape arising from the proposal. The character and appearance of the conservation area will be enhanced.

### **Transport, access and highway safety**

- 11.49 Policy S2 and S22 seek to ensure that new development is located in areas that help to reduce journey times, have safe convenient access to public transport, improve travel choice and reduce the need to travel by private motor vehicles. These policies accord with paragraph 108 of the NPPF which seek to ensure sustainable transport modes are maximised and development is safe and accessible. Policy S5 requires that new development includes acceptable arrangements for car parking and access.
- 11.50 The site is located on a strategic road/bus route. The train station is within walking distance. For walkers, the site can be accessed on foot directly from the existing, lit footway to the front of the development and linking to the town centre. There is a bus stop adjacent to the site outside Trinity Church and one directly opposite the site. This is a highly sustainable location in terms of accessibility by non-car modes of transport. There is also a clear potential for convenient linked trips to the town centre.
- 11.51 Notwithstanding this accessibility, there will undoubtedly be some residual trips to the site by car (for employees and customers) as well as for delivery and service vehicles. This is clear from the format set out in the applicant's supporting documents, not least the layout plan that includes the customer car parking.
- 11.52 In terms of vehicular traffic, a means of access is proposed from Curzon Street to the north east of the building, utilising the existing access road leading to the lane that serves the rear of the residential properties. Parking is proposed to the side and rear of the premises. The accompanying Transport Statement assesses the impact of customer and delivery vehicles. Improvements to Curzon Street are proposed including a full-height kerb reinstated along the length of the site frontage, together with new road marking. Reconfiguration of the existing ghost island on Curzon Street is anticipated, to allow northbound right-turning vehicles to safely access the site and this will be dealt with through a S278 Agreement.
- 11.53 The Highways Authority have reviewed the latest amended details and confirm that they have no further objections to the proposal subject to the inclusion of conditions. Further swept path analysis has been undertaken at their request (this models the pathway of larger vehicles around the site to evidence they can manoeuvre safely). In this instance the modelling was undertaken using a refuse wagon reflecting those used by the Council. Further swept path analysis was undertaken with an articulated HGV of 14.25m length (the maximum that could be used for deliveries to the store, although the applicant has advised that, in reality, they won't exceed 10.3m). A Delivery Management Plan can be secured by condition to ensure the day to day execution of these manoeuvres is safely managed.

11.54 Issues of inter-visibility of pedestrians and vehicles in relation to the back lane of Station Street have been addressed. This was a concern of local residents that use the lane to walk between their homes and facilities at this end of Curzon Street e.g. Lidl and B & M. The solution is a small tiered, kerb build out and parking spaces re-aligned to create a refuge at the corner of the lane for pedestrians to use. The adjacent boundary wall will also be reduced in height to 600mm allowing for better inter-visibility of pedestrians and vehicles entering and leaving the parking spaces. The implementation of these measures can be secured via condition.

### **Ecology**

11.55 Policy S35 of the Allerdale Local Plan seeks to protect the biodiversity of sites and safeguard the habitat of any protected wildlife species. The application documents include ecology surveys.

11.56 The site is an area with potential to support vegetation known as 'kidney vetch', which is the sole food plant for the 'Small Blue' species of butterfly. The submitted ecological assessment identifies that neither Small Blue butterflies nor kidney vetch were observed within the site and no impacts in relation to these species are therefore considered likely.

11.57 Officers advise that the surveys appear robust in their conclusions having carried out our own site assessments. None of the habitats identified on-site are considered to be of significant ecological value and are not considered to represent a constraint to the proposed works. In reaching these conclusions, officers note that the original survey for bats was undertaken outside the optional period for emergence/re-entry (between May and August inclusive), but an update found the site to have a low' bat roost potential. The trees are to be retained along the River Ellen, therefore foraging will remain.

11.58 The proposal in terms of biodiversity is considered to comply with the criteria in Policy S35 of the Local Plan.

### **Flood Risk and Drainage**

11.59 Policy S2 and S29 of the Allerdale Local Plan seek to minimise the risk to people and property as a result of flooding and ensure that development would not increase the risk of flooding elsewhere. Similarly, paragraph 155 of the NPPF directs development away from areas of highest risk through the implementation of the sequential test. Where development is necessary, a Flood Risk Assessment is required to ensure that the development is safe, without increasing flood risk elsewhere.

11.60 The application site lies currently within Flood Zone 3 on the Environment Agency Flood Risk maps, classified as having a high probability of flooding from tidal and/or fluvial sources. Table 2 of the Planning Practice Guidance (PPG) classifies retail as a 'Less Vulnerable' use and sequentially land in flood zone 1 and then 2 should be developed first. However, it is noted that:-

- a) Flood Zone 3 is considered to be appropriate for less vulnerable uses as clarified in Table 3 referred to in the NPPG, however a sequential test will be required.
- b) The proposed use is in the same category of development (less vulnerable) as the existing use.
- c) As the proposed land uses are considered less vulnerable under NPPF the Exception Test is not required for sites in Flood Zone 3a.
- d) Officers are satisfied that there are no sequentially preferable sites which are suitable for a main town centre use that are on land at lower probability of flooding.

11.61 As such the proposal passes the flood risk sequential test (policy S29 of the Local Plan Part 1 and the NPPF).

11.62 Surface water would discharge to the River Ellen, in line with the drainage hierarchy, infiltration not being possible. The existing surface water discharge rate has been calculated for a 1 in 100 year 60 minute storm event to be 9.7 l/s. As requested by the County in their capacity as Lead Local Flood Authority (LLFA), surface water runoff would be restricted to the greenfield runoff rate, calculated to be 1.5 l/s. This requires attenuation, which would be provided through the incorporation of permeable paving and “permavoid” attenuation grates, ensuring runoff is treated appropriately prior to discharge to the river.

11.63 The LLFA raise no objections to the proposal subject to conditions. Officers are satisfied that an appropriate drainage scheme can be delivered on site. The flood risk mitigation proposed would ensure that the risk to people and property was minimised and therefore complies with the requirements of Policy S29 and the NPPF.

### **Contamination**

11.64 Policy S30 outlines the criteria for the reuse of land which includes addressing any contamination.

11.65 The previous use of the proposed development site as a former commercial vehicle sales and repair garage presents a medium risk to pollution of controlled waters from contaminant mobilisation during construction and unknown chemical and gases. As such, the application is supported by a Phase 1 Environmental Desk Study Report. The report demonstrates that it will be possible to manage the risks posed to controlled waters by this development and any impacts from contaminants/or gases. The Environment Agency and Allerdale’s Environmental Health Section raise no objections subject to additional investigations being controlled via condition. The proposal therefore complies with policy S30 of the Allerdale Local Plan Part 1.

### **Residential Amenity**

11.66 Policy S32 seeks to ensure that the residential amenity of communities is maintained to an appropriate level. Paragraph 180 of the NPPF states that, in decision making, we “should ensure that new development is appropriate for its

location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) Mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development
- b) Limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”

- 11.67 The application includes a noise and lighting report, with the nearest sensitive noise receptor residential properties being located on Station Road/Selby Terrace. The noise assessment included undertaking noise level measurements during the quietest daytime and night-time periods on a typical weekday. The siting and orientation of the proposed retail use means that customer activity will be focused on the site frontage, adjoining Curzon Street. However, it is acknowledged that parking is proposed to the side and rear along with deliveries to the rear of the site, which adjoins houses and their gardens. Whilst the visual appearance will be significantly improved through the removal of the existing derelict structures, there is the potential for adverse residential amenity arising from noise associated with the operations of the business and lighting.
- 11.68 Environmental Health colleagues have reviewed the noise report and raise no objections to the scheme. To protect the amenity of the nearby residential properties they are recommending conditions be attached in relation to operational noise which would see the times of deliveries controlled and the use of banksman so no reversing alarms are used. The opening hours for the store would also be restricted. These are necessary and reasonable conditions considering the proximity of the rear gardens and windowed elevations of the homes on Selby Terrace and also Station Street.
- 11.69 The noise reports recommends suitable plant noise emissions criteria to ensure that noise from mechanical service plant will not harm the amenity of local residents. The proposed plant area, containing air conditioning equipment will be screened from residential properties by remaining parts of the building and a rendered wall. The lighting report/plan shows the location and type of lighting proposed. This provides evidence that the lighting will not spill beyond the boundary of the site and therefore would not impact on the adjoining properties. Environmental Health have reviewed these documents are raise no objections.
- 11.70 Particular concerns were raised by local residents during the consideration of the application in relation to the elevated loading platform. A sectional drawing has been provided from the loading area that demonstrates the height of this will not result in any direct overlooking into any existing residential properties.
- 11.71 It is considered that the proposal (subject to planning conditions to control noise disturbance and times of deliveries and opening) complies with Policy S32 of the Local Plan and residential amenity will not be significantly affected.

## **Local Financial Considerations**

- 11.72 Having regard to S70 (2) of the Town and Country Planning Act the proposal will have financial implications arising from future Business Rates.

## **12.0 Balance and Conclusions**

- 12.1 The proposal has been considered against the development plan policies as a whole. Rigorous assessment of the impact of the proposal on the viability and vitality of the town centre has been undertaken with the application of the sequential test and retail impact assessments. The impact is considered acceptable. The duty under section 72 of the Listed Building Act 1990 has been applied and policy S27 of the Local Plan Part 1; the conclusions being the character and appearance of the conservation area will be enhanced and no harm to its significance will result. Matters of residential amenity can be mitigated by conditions.
- 12.2 Overall, subject to conditions, this is a sustainable development plan policy compliant development that secures the redevelopment, reuse and enhancement of a site in a prominent conservation area location without unacceptable impacts. For these reasons it can be supported.

## **RECOMMENDATION**

**Grant permission subject to conditions**

## Annex 1

### **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:**

0402(P)010 Rev A Location Plan

(PL)001 Rev G Proposed Site Plan and Location Plan (amendment received 1 October 2020)

(PL)002 Rev D Proposed Elevations (amendment received 5 June 2020)

(PL)003 Rev C Proposed Elevations (amendments received 5 June 2020)

(PL)004 Rev A Proposed GF Plan & Roof Plan (amendments received 5 June 2020)

(PL)005 Proposed Section AA (amendment received 5 June 2020)

SD18133-03 ground Floor Plan (Demolition)

C3246-HEC-ST-XX-DR-96-1001 Rev P3 Proposed External Services Layout (amendment received 18 March 2020)

70071727 SK01 011020 Revision A Additional Swept Path Assessments (amendment received 1 October 2020)

External Lighting Report received 8 June 2020

Updated Retail Statement August 2020

Additional Sequential Test Assessment received 9 April 2021

Additional Sequential Test – Sale particulars received 9 April 2021

Employment Policy Update (amendment received 7 July 2020)

Heritage, Design & Access Statement

Ecological Statement; Small Blue Butterfly June 2018

Preliminary Ecological Appraisal January 2019

Second Addendum - Bat Survey Dated 11 May 2020

Flood Risk Assessment April 2020

Arboricultural Impact Assessment with Tree Protection Measures

Environmental Noise Impact Assessment July 2018

Phase One Environmental Desk Study report June 2018

Transport Statement April 2020

Email received 5 June 2020

Trisomet External roof and wall panel system (amendment received 5 June 2020)

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 development shall take place until a Construction and Demolition 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**
    - (i) Retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;**
    - (ii) Cleaning of site entrance and the adjacent public highway;**
    - (iii) Details of the proposed wheel washing facilities;**
    - (iv) The sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit or any materials on the highway;**
    - (v) Details of the proposed temporary access points (vehicular / pedestrian);**
    - (vi) Surface water management details during the construction phase**
  - (b) Procedure to monitor and mitigate noise and vibration from the construction and demolition and to monitor any properties at risk of damage from vibration, as well as taking into account 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 (including any wheel washing facilities);**
  - (f) Programme of work for Demolition and Construction phase;**
  - (g) Hours of working and deliveries;**
  - (h) Details of lighting to be used on site;**
  - (i) Highway signage/ Haulage routes.**
  - (j) Measures for ensuring the protected trees within and adjacent to the site are safeguarded from the development during the construction phase. This element of the Plan must include details of the type and siting of temporary fencing to cordon off the root protection areas of the said trees and measures to avoid the storage of materials, plant and machinery within these root protection areas.**
- The approved statement shall be adhered to throughout the duration of the development with the tree protection measures (j) in place prior to development commencing.**

Reason: To ensure the undertaking of the development does adversely impact upon the fabric or operation of the local highway network and in the interests of safeguarding the amenity of the occupiers of neighbouring properties during the construction works of the development hereby approved, in compliance with the

National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014 and in the interests of highway safety.

- 4. No development approved by this permission shall commence until a detailed remediation scheme to deal with risks associated with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme must include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan.**

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), Adopted July 2014.

- 5. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority.**

**The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly.**

**The drainage scheme submitted for approval shall also be in accordance with the principles set out in the Flood Risk Assessment & Drainage Statement dated October 2018 proposing surface water discharging to the River Ellen.**

**The development shall be completed, maintained and managed in accordance with the approved details.**

Reason: To ensure a sustainable means of drainage from the site and minimise the risk of flooding from the development, in compliance with the National Planning Policy Framework and Policy S2 and S29 of the Allerdale Local Plan (Part 1) Adopted July 2014. sustainable development, secure proper drainage and to manage the risk of flooding and pollution. This condition is imposed in light of policies within the NPPF and NPPG.

- 6. No development shall commence until a construction surface water management plan has been agreed in writing with the local planning**

**authority. The development shall be completed in accordance with the approved details.**

Reason: To safeguard against flooding to surrounding sites and to safeguard against pollution of surrounding watercourses and drainage systems, in accordance with the National Planning Policy Framework and Policy S2 and S29 of the Allerdale Local Plan (Part 1), Adopted July 2014.

- 7. The carriageway, footways, footpaths and cycleways etc shall be designed, constructed, drained and lit 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 any part of the development hereby permitted is commenced. No work shall be commenced until a full specification has been approved. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide. Any works so approved shall be constructed before the development is brought into use.**

Reason: To ensure a minimum standard of construction within the approved development in the interests of highway safety.

**Post-commencement/Pre use commencing conditions:**

- 8. The use shall not commence until the access and parking arrangements requirements have been constructed in accordance with the approved plan. Any such access and or parking provision shall be retained and be capable of use when the development is completed and shall not be removed or altered without the prior consent of the Local Planning Authority.**

Reason: To ensure a minimum standard of access provision when the development is brought into use.

- 9. Should a remediation scheme be required under condition 4, the approved strategy shall be implemented and a verification report submitted to and approved in writing by the Local Planning Authority, prior to the development (or relevant phase of development) being brought into 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), Adopted July 2014.

**10. The use shall not commence until a Delivery Management Plan has been submitted to and approved by the Local Planning Authority in consultation with the Highways Authority. The Delivery Management Plan shall include details and method statement of how larger vehicles that exceed 10.3m will be managed through the site whilst delivering and unloading as larger HGV's will require parking bays to be coned off to carry out manoeuvres which should be supervised by onsite staff. The approved scheme shall be fully operational for the lifetime of the development.**

Reason: In the interest of highway safety for use of the parking facilities by both pedestrians and vehicles.

**11. The use hereby approved shall not be brought into use until the wall adjacent to parking bay 9 as shown on drawing number (PL)001 Rev G received 1 October 2020 has been lowered to a height of 600mm and shall be retained at this height thereafter.**

Reason: In the interest of pedestrian safety.

**12. The approved lighting scheme shall be fully installed in accordance with the Maryport Lighting Assessment received 8 June 2020 and drawing C3246-HEC-ST-XX-DR-96-1001 Rev P1 prior to the use hereby approved commencing.**

Reason: In the interests of safety for the users of the site and to protect the amenity of the nearby residential properties in line with the National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014.

**13. The development permitted by this planning permission shall only be carried out in accordance with the approved Risk Assessment (FRA) prepared by waterman, reference WIE 14386-100-R-2-3-3-FRA, dated April 2020 including its mitigation measures.**

Reason: To reduce the risk of flooding to the proposed development in compliance with the National Planning Policy Framework and Policy S2 and S29 of the Allerdale Local Plan (Part 1), Adopted July 2014.

**14. All recommendations outlined in the Noise Impact Assessment report number 25566/NIA shall be implemented and shall be completed before the use, hereby approved, is first commenced and shall be thereafter maintained for the lifetime of the development.**

Reason: To ensure that the buildings, structures and plant are adequately sound proofed in the interests of the amenities of the occupants of nearby premises, in

compliance with the National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014.

**15. Prior to the development being brought into use, details shall be submitted to and approved in writing by the local planning authority of either:-**

- a) Evidence that the applicant will provide onsite access to broadband infrastructure providers during the construction process to allow the providers to install the necessary broadband infrastructure; or**
- b) Evidence, following contact with broadband infrastructure providers, that it is not practicably or viably possible to install broadband infrastructure to achieve superfast (as defined by Government standards) fibre broadband connectivity.**

Reason: To seek to secure sustainable superfast (as defined by Government standards) fibre broadband connectivity in accordance with policy SA33 of the Allerdale Local Plan Part 2 (2020).

**Other:**

**16. 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), Adopted July 2014.

**17. The use hereby permitted shall not be open to customers outside the following times 07:00 to 22:00.**

Reason: In the interests of residential amenity in accordance with the National Planning Policy and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014.

**18. The deliveries to the site (including the delivery vehicle entering and exiting the site) shall be undertaken and completed within the hours of 8am - 7pm Monday – Saturday (with the exception of one delivery per day of a**

**light goods vehicle less than 3.5t gross weight) between 5am - 8am. Only a banksman should be used and no reversing alarms.**

**All deliveries should be time logged with records available for Allerdale officers on demand including times and vehicle registrations.**

Reason: In the interests of residential amenity in accordance with the National Planning Policy and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014.

**19. The works shall be implemented solely in accordance with the mitigation measures outlined in the Second Addendum Bat Survey dated 11 May 2020 and Section 4 of the Preliminary Ecological Appraisal dated January 2019**

Reason: To safeguard the habitat of ecological species in compliance with the National Planning Policy Framework and Policy S35 of the Allerdale Local Plan (Part 2), Adopted July 2014.

**20. The works shall be carried out in strict accordance with the recommendations within the Arboricultural report Impact Assessment with Tree Protection Measures. The protective barriers as detailed on the Tree Protection Plan shall be erected prior to demolition and construction works and shall be retained throughout the construction works.**

### **Advisory Note**

#### **Environmental Permitting: Flood Risk Activities**

The developer may require a Permit under the Environmental Permitting (England and Wales) Regulations 2016 from the Environment Agency for any proposed works or structures, in, under, over or within 8 metres of the bank of the River Ellen, which is designated a Main River. Some activities are also now excluded or exempt.

For further information, the developer should refer to the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

The applicant should note that the Agency has a period of two months to determine a valid application for a Permit for Flood Risk Activities (PfFRA). We would advise that this period is taken into account when planning works which require an Environmental Permit. The applicant is advised to contact us to discuss this in more detail.

