

## Allerdale Borough Council

### Planning Application 2/2018/0595

#### Development Panel Report

**Reference Number:** 2/2018/0595  
**Valid Date:** 30/08/2019  
**Location:** Land west of Derwent Howe retail park, Derwent Drive, Workington, Cumbria CA14 3YW  
**Applicant:**  
**Proposal:** Outline planning application for commercial development involved mixed retail (A1) food (A3) and hot food takeaway(A5) totalling 2,350sqm (25,295sqft).

#### **RECOMMENDATION**

#### **GRANT PERMISSION SUBJECT TO CONDITIONS**

##### **1.0 Summary**

<b><u>Issue</u></b>	<b><u>Conclusion</u></b>
<b>Principle of Development</b>	<p>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.</p> <p>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.</p>

	<p>The proposal therefore complies with policies S16 and DM8 of the Allerdale Local Plan Part 1.</p>
<p><b>Highway safety</b></p>	<p>The site is in a sustainable location with access to public transport.</p> <p>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.</p> <p>The County Council as highway authority consider the transport evidence to be acceptable.</p>
<p><b>Ecology</b></p>	<p>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 As the original were out of date during the course of the application an updated amended preliminary ecological appraisal was submitted (July 2021)</p> <p>The surveys recommend mitigation measures to address any impacts.</p> <p>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.</p>
<p><b>Trees</b></p>	<p>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</p>

	<p>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.</p>
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## 2.0 Proposal

- 2.1 The outline proposal is for 2350 sq.m of commercial floorspace including retail (Class A-both convenience and comparison), Class A3 food and drink and Class A5 hot food takeaway on a 1.61 ha site on a linear area of wasteland on the western boundary of Derwent Drive. The first two landuses would fall under the new Class E category under the revised use class order. As a speculative application no specific allocation has been attributed in breaking down any percentages of the floorspace between these land uses to facilitate flexibility in future marketing of the site.
- 2.2 Although most reserved matters are not included in the application (e.g. layout/appearance scale and landscaping) to enable commercial marketing flexibility, the details of the proposals access junction is included as part of the submission. This would upgrade the existing mini roundabout junction on Derwent Drive (which also serves Derwent Retail Park), to provide a new western fourth entrance link with an access corridor through the existing wooded embankment.
- 2.3 In response the sites existing physical constraints of the TPO trees and the butterfly habitat, the applicant has submitted a supporting plan to define a specific developable area. This area excludes part of the TPO corridor on the highway frontage of the site. It also safeguards an established butterfly colony at the northern edge of the site and introduces a new narrow butterfly corridor around the western perimeter of the site to seek to retain connectivity for butterfly colonies using the habitat along the linear route of the former railway line.
- 2.4 It is envisaged the development would be supported by 90 car parking spaces, 5 motorcycle spaces, 5 disability spaces and 5 five light goods spaces.
- 2.5 The Plans for consideration are:-
- Amended Dwg SK001 Indicative potential parking design planting 2-9-19
  - Amended Dwg 14 Plant specification and schedule 2-9-19
  - Location plan
  - Flood risk and drainage assessment rev A092014 Rev A (29/10/18)

- Developable Areas A 04/05/21
- Amended drawing No 13 planting plan 19/04/21
- Preliminary Ecological Appraisal update July 2021
- Elliot reptile survey report September 2018
- Bat Survey report September 2018
- Entomology report October 2018.
- E-mail re comparison goods dated 17/5/21

2.6 The application was also supported by reports on : retail impact assessment including sequential test (updated) trees, preliminary Environmental risk assessment (parts 1-3), reptile and bat survey, flood risk, ecological impact, transport assessment, entomology survey, coal mining risk assessment, interim travel plan.

### **3.0 Site**

3.1 The proposal constitutes a 1.61 ha site which predominantly relates to derelict land formerly occupied by the railway line infrastructure serving the steelworks. It is an irregular, linear site in a north south orientation with a forked area at its southern end which reflects the trackbed routes of the former railways. This disused corridor has naturally regenerated, but its open and overgrown route along the line appears to be presently used as an informal walkway.

3.2 The western boundary of the site abuts an area of small tree vegetation. The eastern perimeter of the site adjoining Derwent Drive is bordered by a tall earth embankment supporting a belt of trees which officers assume was implemented as part of the landscaping works associated with the reclamation and redevelopment of the steelworks site.(This linear strip of trees is protected under a Tree Preservation Order.)

3.3 The application site is located in a section of the town dominated by both commercial and industrial development. Derwent Drive acts as a definitive physical boundary to the site, with the conglomeration of Derwent Howe's retail parks sited on the opposite side of Derwent Drive. Lakes Road forms the southern edge of the site with KFC's fast food/takeaway on the opposite corner junction to Derwent Drive. The land to the south and North West is predominantly industrial in its character.

3.4 The remaining land to the west contributes to the wider landscaped sloped grounds of the open space associated with Derwent Howe's landscaped slagbank.

3.5 A public footpath 262026 traverses across the southern section of the site.

### **4.0 Relevant Planning History**

4.1 Prior to the submission of the application a woodland tree preservation order (TPO No.5 2014 ) was issued to protect the long strip of established landscaping (most of which is sited on an embankment) along the road frontage to Derwent

Drives highway corridor. The Council considered these trees were of amenity value to the streetscene.

4.2 There is no recent planning history of planning applications directly relating to this disused site.

4.2 A screening opinion was undertaken for the proposed development with the council confirming on 17<sup>th</sup> January 2019 that although the development constituted schedule 2 development under the provisions of the Town and Country planning (Environmental Impact Assessment) regulations 2017 it was not EIA development. Whilst the value of their priority /BAP butterfly species (although not protected) was recognised, it was considered their significance only concerned matters of local importance.

## **5.0 Representations**

### **Workington Town Council**

5.1 Recommend Refusal -The committee reiterated its past stated belief that this development would have a very negative impact on town centre vitality and on the emerging value of Derwent Howe open space. Its impact on traffic congestion on Derwent Drive would be considerable and no manner of any town "Blandscaping" would ameliorate it.

### **Cumbria County Highways Authority**

5.2 Initial concerns on insufficient information. Further to the receipt of additional information, the highway authority advise the safety audit reviewing the modifications to the roundabout have demonstrated these alterations can be achieved to accommodate the proposal. Therefore there are no highway objections subject to highway conditions.

### **Cumbria County Rights of Way Officer**

5.3 Public footpath 262026 runs across the southern end of the site and will require a formal diversion or remain unaltered /unobstructed. Any temporary obstruction will require a formal temporary closure.

### **Cumbria County Minerals and Waste**

5.4 No comments (the site is not within a safeguarding zone).

### **Cumbria Constabulary**

5.5 Acknowledge the application is in outline and the illustrative layout is indicative. Reference is made to the applicants design and access statement with regards to the NPPF "create places that are safe, secure and attractive" and Policy DM14 of the local plan. Any future detailed scheme should demonstrate how crime prevention measures have been incorporated with references to; layout, landscaping, footpaths, service yards, bin management, external

openings/accesses, internal layout and access controls, secure storage facilities for staff personal belongings and CCTV.

### **United Utilities**

- 5.6 No objections subject to drainage conditions to ensure its compliance with the submitted Flood risk and drainage assessment rev A092014 Rev A (29/10/18)

### **Coal Authority**

- 5.7 Advise the site is in a Development High risk Area and therefore coal mining features and hazards. The application is supported by Coal Mining Risk Assessment and the indicative plan suggest the development will be located on the eastern boundary. Based on this evidence they have no objections.

### **ABC Environmental Health**

- 5.8 No objections subject to conditions re contamination assessment. Accept the noise assessment and Geo Environmental Assessment recommendations.

### **Natural England**

- 5.9 No objection as the proposal will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Reference is made to: the nearest Sites of Special Scientific Interest (SSSI), the duty of the authority to conserving biodiversity (including restoration/enhancement), standing advice on protected species, impact on local wildlife under para 171-174 of the NPPF (including scope to improve connectivity) and recommends records be sought on species from local sources. Priority habitats and species are of particular importance for nature conservation, with consideration of potential environmental value of brownfield sites, including links to the open mosaic habitats inventory, reference the importance of public rights of way and access.
- In reference to Environmental enhancement there is the opportunities for net gains in biodiversity as outlined in the NPPF and may include: footpath provision, restoration of hedgerow creation of ponds, tree planting, native plants in landscaping schemes, use of bat boxes, sympathetic lighting and green roof buildings with the adoption of a Biodiversity strategy.

### **Cumbria Wildlife Trust**

- 5.10 Object to the application on the grounds of impact on Biodiversity. The applicant's ecological evidence correctly identifies habitats and species present on site. However the report considers the small blue butterfly is only of local importance but Workington is the only substantial population in the north. Policy S35 should therefore apply as the small blue population exists as a meta population of smaller sub-populations, which often comprise of a small number of individual animals, but exist as part of a larger population which is sustainable at the wider scale. Contest the report should therefore consider the population as a whole and the mitigation is inadequate with only a limited possibility of sustaining the small blue population on the site. The Trust is further concerned that as an

outline application these details may change in the final item and that the volunteered mitigation requirements may differ. If approved a more substantial mitigation package is required, which positively contributes to the wider small blue population to achieve biodiversity gain in alignment with government thinking.

### **Other representations**

- 5.11 The application was advertised on site and in the press. Four letters of objection were received on the grounds of:
- a) Advised the council in 2014 opposing any development on this site under the local plan by virtue of its impact on butterfly colonies.
  - b) The site is not identified as developable in the Allerdale Local plan (Part 2)
  - c) The site is a BAP priority habitat. Which is important to a range of invertebrates with the applicant surveyors identifying 37 insect species including 4 moths/butterflies of national concern.
  - d) The report highlights the status of the small blue butterfly has increased due to the decline of its colonies with West Cumbria representing the only location they can be found north of Gloucester. And confined to coastal grasslands in the Workington /Maryport area.(mainly deriving from its foodplant- kidney vetch)
  - e) The objectors recorded 10 small blues on this site in June 2014 as part of an overall siting of 70 small blues along the Lakes road to Chapel bank corridor, 38 small blues in the corridor (June 2015) with 2 spotted small blues on follow up meetings in May 2018 with the surveys picking up 3 sightings in the same month and 4 later in the year. The butterfly numbers in 2018 reflect those of 2014 (survey evidence provided)
  - f) The mitigation offered by the applicant is flawed as a result of;
    - The applicants case that 440sqm of lost habitat is inaccurate which should alternatively relate to the whole track bed area (5000 sqm)
    - The mitigation area is very small and the offer of translocation of existing good habitat would result in habitat loss
    - Translocation methods have failed in the past and requires a nutrient poor based rich soil. Butterfly Conservation Cumbria has better management methods
  - g) Loss of a significant wildlife corridor
  - h) Evidence was provided of the relationship of recorded sightings along the railway corridor whose brownfield land is at risk of development with the need to maintain connectivity along the corridor
  - i) Dispute the proposed wildlife corridor with the isolated colonies lacking connectivity with increased risk of extinction.
  - j) Proposal is contrary to para 174-177 of the NPPF re conserving and enhancing the natural environment in “minimising impacts on and providing net gains and the role of wildlife corridors, highlighting “if significant harm to biodiversity from a development cannot be avoided, adequately mitigated for or at least compensated for planning permission should be refused”

- k) Impact on other butterfly species –Dingy Skipper, wall and small Heath
- l) Too many fast food outlets in the town.
- m) Some people travel considerable distances to inspect the butterflies.
- n) The ecological assessment update identifies the specific areas to be planted with kidney vetch/wildflower within the site but no change to the retail unit layout. The proposal will result in the loss of the kidney vetch under the car park, with 880sqm to replace 440sqm of the track bed, but highlights the objector's earlier comment that it results in the loss of 5000sqm of open mosaic habitat, especially the loss of the habitat areas of the trackbed. The mitigation area is less than 20% of the habitat lost, with only 10% of the railway corridor. The translocation of turves is unlikely to work for kidney vetch as it grows on bare substrates, nor is it likely to grow on the margins of roads. The proposed small blue management plan does not reflect good practice management guidance for small blues published by the butterfly conservation group.
- o) The revised report does not address the critical issue of habitat connectivity.  
Therefore concludes parts of the retail assessment should be reappraised. There is insufficient width in the proposed replacement corridor for trees shrubs as a wildlife corridor. Past records show small blue is found throughout this corridor which was damaged by the fast food development on the opposite side of Lakes Rd. This will both reduce numbers and segregate the colonies on either side of the corridor with the risk that they become increasingly isolated and at risk of extinction. Other species will also be impacted by the development.
- p) The impact levels on the town centre from the Derwent Howe retail park application are 7.9% at 2023, which the councils peer assessor do not consider to be a level to be significant for the NPPF, but there is the need for a cumulative impact assessment required for the proposals.
- q) The councils retail study from 2016 highlighted the health of Workington town centre had a moderate level of vitality and viability with comparison goods offer and accessibility being particular strengths , but also observed weaknesses including the quality and range of retail offer, the quality of its built environment and some prominent vacant units. The cumulative effect of additional retail provision drawing people away from the town centre and undertaking linked trips will have an impact on the town centre which needs to be understood by the council.
- r) Need for justification that the cumulative impact will not harm the town centre.

5.12 The Butterfly Conservation Cumbria Group (BCCG) also object to the application as it is sited on a brownfield habitat which is used by a variety of wildlife (as verified by the applicant's surveys) mainly as a wildlife connectivity and pollination area as a green corridor within an urban corridor.

The site was a private railway line with good breeding colonies of butterflies including Small Blue, Dingy Skipper and Wall Brown and following the lines



closure it has become a wildlife sanctuary and although there are no substantial breeding colonies it remains a route of connectivity. Removing and transplanting turf is proven not to work on low substrate materials such as railway tracks (as exemplified by the replacement bridge development at Northside). A wildlife corridor cannot be translocated. Damage to this corridor has already occurred through the FFC development which will be additionally harmed by this proposal especially if it also involves the loss of trees.

The proposal therefore conflicts with Policy S24 and S35 of the Allerdale local plan and para 174 of the NPPF.

In response to the amendments and considers the development does not only affect the small blue but other species of insects and animals with the recent count of 156 migrating painted lady butterflies using the route.

The letter contests the applicants claims that the development meets the tests of para 170 of the NPPF and Policy S35 of the local plan as there is no net gain for biodiversity in terms of mitigation as the replacement area despite its size supersedes an existing wildlife corridor.

In reference to the NPPF and mitigation/compensatory requirements, the proposed mitigation is not appropriate as it seeks to create habitat to replace an existing habitat. Moving species will not achieve this and the proposal will reduce the existing corridor and its function as a connectivity corridor.

The wildlife corridor has existed over 100 years as a thin strip of natural habitat which should be left.

Also question the need for another fast food outlet.

In their latest response the BCCG repeat their former reasons for rejecting the application, highlighting that the habitat of the site not only relates to the small blue, but is a long standing breeding site for a variety of other species. Such wildlife corridors should be protected as the loss of one core breeding will result in longer term genetic weakness which in turn will lead to extinction, with the small blue suffering major setbacks due to loss of key breeding habitat, connectivity issues and various forms of anti-social behaviour. The ecology update appraisal changes nothing since 2018 and threatens another section of the steelworks site which was historically the largest concentration of small blues in the U.K, resulting in a loss of connectivity to the detriment of site through the loss of trees, wildlife and a leisure area used by the public.

The updated report suggests half the proposed site is brownfield, which the group consider should be retained as part of the towns heritage .Given the number of species specified in the applicants report questions the applicants conclusion the risk to such species is low.

The mitigation measures proposed are inadequate because there is no like for like habitat and the proposal is simply a variation of the same connectivity corridor which is already a wildlife area the suggested use of kidney vetch plots demonstrates lack of understanding of the species

especially as it relates to an entire urban wildlife corridor which cannot be translocated.

Reference to the NPPF

*'Habitats and Biodiversity To protect and enhance biodiversity and geodiversity, plans should: a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; **wildlife corridors and steppingstones that connect them**; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; b) Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable **net gains for biodiversity**. When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), b) adequately mitigated, or, as a last resort, compensated for, then **planning permission should be refused***

and

*Section 4.2.3 of the PEAU states and again I quote 'The grassland present along the disused railway tracks and on associated slag supports a mix of neutral, acid and more basic flora depending on the substrate. The grassland forms a mosaic of vegetation across the Site with bare areas, herb-rich grassland, rank grassland, tall ruderals, and ephemeral perennial species – **this is considered to fall under the category of Open Mosaic Habitat on Previously Developed Land which is a Biodiversity Action'** And, **5.1.6 Priority/UKBAP/Other Species**. The Site is considered to be Plan Priority Habitat of local value to priority species such as hedgehog, brown hare and common toad, if they are present within the area. The species within the grassland provide good quality habitat for foraging invertebrates, and therefore **the Site is considered to be of local value to the invertebrate population. The development has the potential to cause direct harm to these species during Site clearance and construction.**'*

Therefore questions whether the application addresses these issues especially as it destroys its environment. The reference to doubling the area lost through mitigation is misleading as it results in the loss of one third of the site with no gain in habitat. The development would undermine the Groups collaborative works undertaken with Workington nature partnership and challenges Cumbria's pilot role for the Local Nature Recovery Strategy.

## **6.0 Environmental Impact Assessment**

- 6.1 With regards to The Town and Country Planning (Environment Impact Assessment) Regulations 2017 the development falls into Schedule 2 and, following Screening, is not considered to be EIA development.

## **7.0 Duties**

- 7.1 The development does not affect the setting of listed buildings or Conservation Areas.
- 7.2 It also does not have a significant effect upon a Natura 2000 designation.

## **8.0 Development Plan Policies**

### **Allerdale Local Plan (2014) Part 1-ALPP1**

- 8.1 The following policies apply:-

- S1 Presumption in favour of sustainable development
- S2 Sustainable development principles
- S3 Spatial Strategy and Growth
- S4 Design principles
- S5 Development Principles
- S6a Workington
- S16 Town centres and retail
- S22 Transport principles
- S24 Green Infrastructure
- S29 Flood Risk and Surface water drainage
- S30 Reuse of land
- S32 Safeguarding amenity
- S33 Landscaping
- S35 Protecting and Enhancing Biodiversity and Geodiversity
- DM7 Town centre development
- DM8 - Protecting Town Centre Vitality and Viability
- DM14 – Standards of good design
- DM16 - Sequential test for previously developed land.
- DM17 -Trees hedgerows and woodland

### **Allerdale Borough Local Plan (Part 2) - ALPP2**

- 8.2 The site is within the settlement limits for Workington but is not allocated.

- SA2 Settlement Limits
- SA52 Protecting and Creating Green infrastructure

Whilst not directly related to the site, the following policies are also relevant:-

- SA46 Retail and Town centres
- SA47 Central Car Park Workington
- SA48 Royal British Legion

## **9.0 Other material considerations**

### **National Planning Policy Framework (NPPF) (2021)**

- 9.1 Section 7 of the NPPF is titled 'Ensuring the vitality of town centres'. Paragraph 86 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 81 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.
- 9.4 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 centre sites be considered.
- 9.5 Paragraph 87 states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge-of-centre locations and only if suitable sites are not available (or expected to become available within a reasonable period) should out-of-centre sites be considered.
- 9.6 Paragraph 88 says that, when considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities are urged to demonstrate flexibility on issues such as format and scale.
- 9.7 Para 89 states that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace). 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).

9.8 Para 90 states that, when assessing applications for retail and leisure development outside town centres which are not in accordance with an up-to date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace). 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).

9.9 Paragraph 91 states that, where an application fails to satisfy the sequential test or is likely to have significant adverse impacts in terms of the considerations set out at paragraph 89, then planning permission should be refused.

9.10 Para 170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

9.11 Para 174 advises – “To protect and enhance biodiversity and geodiversity, plans should:

- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity<sup>56</sup>; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation<sup>57</sup>; and
- b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

9.12 Para 175. When determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>58</sup> and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.13 Para 176. The following should be given the same protection as habitats sites:

- a) potential Special Protection Areas and possible Special Areas of Conservation;
- b) listed or proposed Ramsar sites <sup>59</sup>; and
- c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

9.14 Para 177. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

- 9.15 Para 179 advises; “To protect and enhance biodiversity and geodiversity, plans should:
- a) a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping-stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and
  - b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.
  - c) Paragraphs 180 & 182 are also relevant to this issue.

### **West Cumbria Retail, Town Centres and Leisure study (WCRTLS) 2020**

- 9.16 Allerdale and Copeland councils jointly commissioned this study for West Cumbria in January 2020. One of the key purposes was to act as the evidence base for future development plan policy and land use allocations, as well as providing baseline information to assist in the determination of planning applications for retail and leisure development. It postdates the Retail Study (2015) by 5 years that was part of the evidence base for the Local Plan.
- 9.17 This study is based on an up-to-date household shopping survey, the latest population and expenditure data and updated health checks for ten defined town centres, including land use surveys. In addition, the health assessment included engagement with key stakeholders to gain views on existing town centre strengths, weaknesses, opportunities and threats; potential suggested town centre improvements and retailer/leisure provider requirements/needs. It therefore provides up to date and robust evidence to inform the assessment and this officer report.

### **Workington Town Centre SPD (March 2021)**

- 9.18 This complements Local Plan policy. It is relevant when assessing available town centre sites for their suitability for the applicant’s proposal.

### **Workington Town Investments Plan (Oct 2020)**

- 9.19 Workington was invited by Government to develop proposals to support the town’s economic growth prospects with a focus on improved transport, broadband connectivity, skills and culture. Communities, businesses and local groups had the opportunity to help draw up a Town Investment Plan which was submitted to Government in October 2020.
- 9.20 In March 2021 as part of the Government’s budget, it was announced that Workington had been successful in securing £23m from the Towns Fund.

- 9.21 The content of the Plan is a material consideration as it informs the assessment as to whether certain town centre sites are suitable or available for the proposal and indicates what committed or planned investment is anticipated. It also informs the weight to be given to the allocation policies in the development plan when considering it as a whole.

### **Allerdale Borough Council Strategy Plan 2020-2030**

- Invest to grow
- Thriving towns and villages

### **10.0 Policy weighting**

- 10.1 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 town centre SPD is also a material planning consideration; it is supplementary and complementary to the adopted local plan policies.
- 10.3 The Workington town centre bid is considered a material consideration and is viewed as having significant weight, especially as the towns bid was accepted by the Government with the expectation that its content and criteria of delivering its objectives (some, such as Workington Opera House have already progressed)

### **11.0 Assessment**

#### **Principle of development**

- 11.1 Workington is identified as the Principal Centre in the settlement hierarchy under Policy S3 of ALPP1 (2014) and should therefore be the focus for major new development. (The application site is located within its defined settlement limits under Policy SA2 of ALPP2). This position, and the town's vitality and viability, is to be protected under Policies S2 and S6a. Subject to certain criteria, Policy S5 indicates that new development will be concentrated within the physical limits of such centres, providing that the scale of the development proposed is commensurate to the size of the settlement and reflects its position within the hierarchy. 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 Policies DM16 and S30.
- 11.2 The policies of ALPP2 have been fully adopted during the course of the application and therefore also are of primacy in determining the merits of the proposal.
- 11.3 As an outline application, the merits of the proposal relate to the principle of the development at the application site and its context within the adopted local plan



policies. Re-development of this site for the scale of development proposed is considered to be commensurate to the size of the settlement and the role of Workington as the Principal Centre within the hierarchy, in accordance with Policy S5. The use of this site is therefore in accordance with policies S5 and S30 of ALPP1.

- 11.4 The design criteria under Policies S4 and DM14 can be addressed as part of any future reserved matter application which will need to account for the bespoke physical constraints of the site.
- 11.5 The application site is located within part of an identified wider area of Green Infrastructure along the former railway corridor under Policy SA52 of ALPP2. The objectives of this policy is also endorsed under Policy S24 of ALPP1 The policies does not preclude development in this area but seeks the enhancement of these assets and any wildlife linkages. This derelict site has naturally regenerated and is only partially visible to public view on its road frontage onto Derwent Drive and Lakes road (plus the cul-de sac footpath). The existing woodland is unmanaged. The existing path along the route of the railwayline has no formal status. Members therefore need to evaluate these aspects as part of the individual merits of the application. Given the proposed landscape and ecological enhancements opportunities through the proposed development works, officers consider the principle of the development is acceptable especially when weighed alongside its potential economic benefits.
- 11.6 Furthermore the site's location is well related to and in close proximity to other established retail/commercial units and therefore is compatible with surrounding landuses as a progressive expansion of the existing retail park. Therefore subject to demonstrating compliance with the retail policy criteria (including the sequential test) and any site specific physical constraints the principle of the development is acceptable as a sustainable form of retail development.

### **Retails planning considerations**

- 11.7 Policy S16 of ALPP1 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.
- 11.8 Policy DM7 advises that within town centres, proposals for large scale retail development must ensure adequate provision for small scale shops to ensure a good mix of retail floorspace, to provide opportunities for independent retailers and avoid the dominance of national brands. Support will be provided for uses that support the evening economy subject to no adverse impact on the amenity of neighbouring landuses. The design of shopfronts should be sympathetic with the local area.
- 11.9 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

has not demonstrated compliance with the sequential approach to site selection as set out in national policy.

- 11.10 Under the retail sequential test criteria Policy S46 of ALPP2 advises that the allocated sites in Policies SA47 (central car park) and S48 Royal British Legion will be safeguarded for main town centre uses which will support and enhance the vitality and viability of the town centre during the plan period. Sites for town centre uses outside the allocated sites will be supported subject to compliance with policies S16, DM7, DM8 and DM9 and other relevant local plan policies.
- 11.11 The current submission does not definitively assign specific levels of floorspace to each of the titles commercial landuses but alternatively initially sought an open option for differing types of commercial landuses (all of which are classed as town centre landuses) to facilitate flexibility in the future marketing of the site. As a consequence any such review of the retail impact should account for all eventuality addressing the options of all convenience or comparison retail landuses upto the applications floorspace threshold (2,350 sq.m) The applicant has submitted a supporting retail impact and sequential assessment to demonstrate the impact of all potential eventualities of these uses on the town centre (i.e. worst case scenario's).
- 11.12 Members are therefore required to assess whether the impact of the proposed retail store, either individually or cumulatively is considered to be appropriate for Workington by protecting the vitality and viability of the town centre. The applicant's submitted evidence had to be updated due to material changes in circumstances within the duration of the application. These changes include;

Updated NPPF 2021

Adoption of the Allerdale local plan (Part 2) 2020

Workington Town centre SPD

Workington Town Investment plan

Updated West Cumbria retail Town centre and Leisure study 2020 (including updated health check especially given the change in circumstances (including covid) and consideration of new sequential sites arising in the intervening timescale.

The applicants updated retail evidence details (March 2021) can be summarised below.

### **Sequential Test for town centre uses – context**

- 11.13 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. The Council will support retail development in accordance with the following hierarchy of centres:-

Principle Centre: Workington

Key Service Centres: Maryport, Cockermouth, Wigton, Silloth, Aspatria

Local Service Centres – as defined within the settlement hierarchy.

Policy S16 requires retail development to be located within existing centres and to be of a scale commensurate to the settlement's role and function, so as to not undermine the settlement hierarchy. Further, Policy S16 requires that proposals for main town centre uses outside of defined centres will be refused where the applicant has not demonstrated compliance with the sequential approach to site selection, or where there is clear evidence that the proposal would have a significant adverse impact on the vitality and viability of a nearby centre. Policy DM8 stipulates a threshold of 500m<sup>2</sup> for Workington for retail development requiring an impact assessment.

11.14 Policy SA46 of the ALPP2 safeguards the Central park site (Policy SA47) and Royal British Legion (SA48) for main town centre uses and other uses that will support and enhance the vitality and viability of the town centre.

11.15 The application site is not sited within or adjacent to Workington town centre, but remains within the established urban area of the town and its respective settlement limits under Policy SA2 of ALPP2. Consequently the proposal would be classed as an 'out of centre' site for the purposes of assessing section 2 of the NPPF and policies S16 and DM8 of the Allerdale Local Plan.

11.16 The application is supported by a sequential assessment of other sites within Workington which has been expanded upon within the updated version which also accounted for the findings of the Council's initial peer review (April 2019) to the original retail assessment.

### **Sequential Assessment**

11.17 Paragraph 86 of the NPPF states that local planning authorities should apply a Sequential Test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Applications for main town centre uses should be required to be located in town centres, then in edge-of-centre locations and, only if suitable sites are not available, should out-of-centre sites be considered. Paragraph 87 says that when considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities are urged to demonstrate flexibility on issues such as format and scale. This is endorsed under Policy DM8 of ALPP1.

11.18 The expanded updated specific alternative sites were considered by the applicant and reasoning provided for dismissing them. This reasoning was not only tested by Council officers but also peer reviewed by a suitably qualified, independent specialist instructed by the Council.

11.19 The merits of each of these bespoke individual sites are examined in the below paragraphs using the scope of a development smaller 1.16ha developable site area. These sequentially preferable sites can be assessed in the context of

the NPPF parameters of both their suitability and availability (including consideration of the former findings associated with the original survey). The specific alternative sites which were considered by the applicant and reasoning provided for dismissing them is as follows:

#### **Land at Station Approach (Adjacent to Travelodge)**

11.20 This site had been volunteered for consideration by the peer assessor. This site relates to the newly developed Travelodge site. A triangular area of vacant land lies to the west of the site. Although the remaining section of the site benefited consent for a public house this part of the works has not been implemented and the site remains vacant.

The applicant concludes that it is not apparent that the site is available nor is it sequentially preferable to the proposed site as it does not have material better connections to Workington town centre. i.e. not a sequentially preferable site. The peer assessor repeats his earlier view and accepts the applicants views that this site is neither available or suitable for the development

#### **Land at the Cluffocks**

11.21 This site was submitted in the original retail impact assessment and was dismissed as it was not available and was primarily allocated for alternative uses which was accepted by the initial peer assessment. The site is not available for sale and unsuitable for the proposed development owing to its scale and proposed allocation for alternative uses. The peer assessment concurs with these findings.

#### **Royal British Legion, Jane St, Workington**

11.22 Also included in the original retail assessment, but was considered unsuitable due to its scale and access and the site is not for sale, which was accepted within the initial peer assessment. There is no material change in circumstances with the site and it is not being actively marketed with the understanding the British Legion presently has no intention to sell the buildings. The peer assessor repeats his earlier findings that this site is not available and by virtue of its size is not suitable.

#### **Central Car Park**

11.23 The applicant's initial retail impact assessment at the time of its submission concluded that this site was insufficient in size to accommodate the scale and form of the development proposed and is unsuitable for a large scale proposal due to the proximity to housing. It noted the site was in full use as a car park and was not being actively marketed for sale. Although the initial peer assessment considered the development could be made available for the proposed development within a reasonable period of time and therefore could not be dismissed on the grounds of availability, they did agree the site was unsuitable for the development owing to its insufficient size. The applicant considers there has been no change in circumstances in terms of suitability of the site for the proposed development.

However, on balance, it was considered the site was not suitable for the type of commercial development that would be delivered at the application site. i.e. assuming it would alternatively likely comprise a number of smaller, freestanding units serving a 'roadside' location and potentially including a drive-through restaurant. The peer assessor thus took the previous view that the Central Car Park site would alternatively be more suited to the development of fewer, larger units, prompting a recommended planning condition to restrict the size and/or number of the commercial units at the application site. (This was predicated on the basis that the development would likely be implemented to reflect the original indicative drawings).

Since this initial assessment, Central Car Park site has now been allocated for main town centre uses within the Local Plan (Part 2). The peer assessor's updated opinion is that the proposed development at the application site is likely to comprise fewer, larger commercial units that might not be dependent on the visibility provided by a roadside location. The peer advisor states that notwithstanding this, since the time of our previous advice, we have been advised by the Council that it is progressing proposals for an Innovation Centre at the Central Car Park site as part of its Workington Town Investment Plan (WTIP) of October 2020. The WTIP (at Map 6.3) shows that the Innovation Centre will be located to the north of the existing car park, occupying around a third (or around 0.3 ha) of the wider site. It is understood funding has now been secured for this development and correspondence has been observed confirming that this part of the site is currently unavailable for alternative developments.

The peer assessor understands that proposals for the southern part of the Central Car Park site are less well advanced but that this area is expected to deliver mixed use development, including a residential element that is complementary to the Innovation Centre. The Workington Town Centre SPD states that the wider site is expected to be developed in a comprehensive manner and that new development should contribute positively to urban grain. Whilst it would be possible to develop a number of freestanding commercial units on the southern part of the site for retail and food/drink uses (potentially providing a similar amount of floorspace to the application scheme) we do not consider that such development would meet the current aspirations of the Town Centre SPD or WTIP which appear to encourage higher density development, for example ground floor commercial units with residential development above. The application scheme proposes development for commercial uses only. On balance, the peer assessor therefore is of the view that this site is unsuitable for the proposed development.

Further to the peer assessment officers have been advised by the council that this site is not available.

### **Fusion night club**

- 11.24 This represents an edge of town centre location to the North East of the town's primary shopping area. The unit was vacant prior to its fire in 2020. The site area is approx. 0.11ha and therefore is physically too small to accommodate the development even on a flexible basis i.e. not suitable for the development. Furthermore its suitability is further hindered due the potential of the split level of any unit and lack of road frontage.

The peer assessor considers that given the size of the site, its constrained access and the design principles set out for this site in the SPD, this site is accepted as being unsuitable.

### **Former Debenhams, Washington Square shopping centre.**

- 11.25 This store is vacant following it being wound down after any reopening after lockdown. The site is therefore likely to be available in the next couple of months. Its site area is 0.21ha, which is below the applicants minimum required 1.2ha site area. Therefore the site area and its split levels are not considered suitable for the development.

The peer assessor observes that the site is not yet on the open market but is likely to become available within a reasonable period of time. The unit currently provides floorspace of approximately 7,215 sq. m over four levels, exceeding that proposed at the application site and so this site cannot be discounted on the basis of its size alone. Washington Square's agents have confirmed that the landlord would consider subdivision of the Debenhams unit either for retail uses or retail at ground floor and alternative uses on upper floors. It is therefore possible that this site could accommodate the proposed development without the need for the disaggregation of the application scheme. The peer assessor notes that the application seeks permission for unrestricted retail and food/drink use with no specific operational requirements. The large amount of modern retail floorspace available at the former Debenhams store would be suitable for a range of different operators, including most types of comparison retailer and food and drink uses. We recognise that this site would be less suitable for the operation of a larger foodstore or for the sale of bulky goods, both of which are likely to rely on access to adjacent car parking. Nevertheless, given that the application scheme seeks permission for unrestricted uses, including uses which evidently could be accommodated at the former Debenhams, the peer assessor cannot conclude that the site is unsuitable. However it considers the sequential test would be satisfied if it was restricted for the sale of bulky goods as the Debenhams site would be unsuitable for this retail activity.

### **The former Workington Opera House, Pow Street/Tiffin Lane**

- 11.26 This building had been vacant since 2004 when last used as a Bingo Hall. A prior approval application for its demolition (DEM/2021/0001) had been submitted approved and implemented with future uses unknown but is not being actively marketed. Its site area is 930sqm on a site area of 0.09ha which is below the applicant's minimum 1.2ha site area. Thus the site cannot be accommodated on the site which was accepted in the initial peer review.

The peer assessor accepts this site is too small for the proposed development and therefore is unsuitable, especially as it's also understood from the Workington Town Investment plan that it is to be used as a Pocket park.

### **Other units**

- 11.27 The applicant former retail assessment identified 27 vacant units ranging in size from 30-930sqm the scheme identified that even the largest unit could not be

accommodated without substantially altering the scheme and therefore such units would be unlikely to provide suitable alternatives to the application site and were unaware of any other larger vacant units in the town centre.

The latest Experian Goad plan for Workington suggests 31 vacant units (excluding Debenhams) varying in size from 30-1720sqm (although this largest option- 3 Washington Square is at first floor level). Given the previous comments the only potential vacant unit is the item at 3 Washington Square which was not vacant at the time of the earlier initial assessment. The other units are discounted as unsuitable. The applicant contests the vacant unit represents only 75% of the total floorspace of the proposed development. The minimum site area required is 1.2ha whereas the unit measures just 0.17ha the unit cannot therefore physically accommodate the proposed development and therefore is not suitable.

The peer assessment refers to the unit at 3 Washington Square (1,720 sqm). This site is 25% smaller than that of the applicant's proposal and therefore is deemed unsuitable.

- 11.28 The applicants sequential evidence overall concludes there are no sequentially preferable sites that are available or suitable to accommodate the proposed development. Therefore in the context of para's 86 and 87 of the sequential test there are no preferable sites within or on the edge of the town centre.

The applicant considered that there were no sites within or on the edge of the town centre that would be available, suitable or viable to accommodate the quantum of the proposed development. Vacant units within the town centre were considered to be too small for the proposed development.

- 11.29 The peer assessor has also undertaken their own separate search of vacant sites with no additional sites identified. Unless the aspect relating to the Debenhams store relating to comparison goods is addressed, the proposal does not comply with the sequential test.

### **Retail Impact Assessment**

- 11.30 Paragraph 89 of the NPPF states that when assessing applications for retail and leisure development outside of town centres which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set threshold. Where there is no locally set threshold then the default threshold is 2,500 sq. m. Impacts should be considered in terms of impact on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposals and the impact of the proposal on town centre vitality and viability (as applicable to the scale and nature of the scheme).
- 11.31 Further to complying with the sequential approach, an impact assessment may also be required for certain proposals outside of a defined town centre to assess the full extent of potential adverse impacts upon the existing town centres. Proposals for retail, leisure or office development above thresholds specified in Policy DM8 will require an impact assessment if it exceeds 500m<sup>2</sup>.

11.32 The applicant has reviewed and updated the evidence of his initial assessment. Reference is made to the initial peer review of this earlier assessment which concluded that it was not considered the proposed development would give rise to significant adverse impacts on either the town centre vitality or viability or in-centre investment. The previous peer assessment accepted the three scenario's tested (including worst case), with the scenario to comparison turnover being robust but that convenience retail floorspace could trade 50% higher than in the retail impact assessment. It accepted: appropriate methods for estimating the turnover of existing destination had been adopted, consideration had accounted for the mixed use developments at Siddick Rd and Unit 7 of Derwent Howe retail park and that their turnover of committed scheme could be slightly higher than in the assessment and that the applicants trade diversion and impact assessment figures in the report were robust, even if sale densities achieved for convenience floorspace were 50% higher than assumed in the retail assessment, impacts on the convenience turnover of the town centre would still likely be low and any trade diversion from Maryport would likely be low.

In addition the applicant confirms the former peer review advised they were unaware of any committed or in-centre developments that would be adversely affected by the proposals and consequentially there would be no significant adverse impacts form the development. The former peer report also advised any cumulative impacts on Workington town centre 4.3%-7.9% would be unlikely to give rise to significant impacts, and the element of the A3/A5 would likely be an ancillary role.

In reviewing the evidence the applicant also re-evaluated the health of the town centre. It advised that the number of vacant units (31 units-13%of total ) The revised report stated that despite the Covid -19 pandemic lockdown, the compassion goods sector (40%) of the town centre remains strong and is above the national average (32%). However its alternative 6% convenience floorspace is below the national average figure (15%) reflecting the limited convenience goods provision in the town centre.

Reference is also made to the health check made in the 2020 West Cumbria Retail, Town centres and Leisure study which comparable to that of the applicants study. In addition the footfall was considered reasonable in the main streets in the summer 2020 (post lockdown) and higher than that in 2019 with a hopefully similar revival expected after the current lockdown. Therefore despite the pandemic Workington town centre continues to be reasonably vital and viable.

The applicant in responding to whether there are any existing committed planned public and private investment in the centre in the catchment of the proposal, refers to the original assessment that no such works exist which could be adversely impacted by the proposal. There is awareness of the retails commitments at unit 7 Derwent Howe and the works at Siddick Road opposite Dunmail Park but as these are similarly out of town centre locations they are excluded in assessing the impact of investment. As before no other known



developments were observed which require reconsideration in the updated details. (thus complying with the first part of the NPPF's requirements).

The review also assessed the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and its wider catchment area. The applicant repeated the same methodology approach used in the original survey, but has accounted for the 2020 RTL study (Zone 5). A base year of 2020 is adopted with a design year of 2025, and a price Base of 2018 which accords with the retail study.

The turnover of existing convenience and comparison retails stores is taken from the 2020retail study (calculated by multiplying the net sales floorspace by the latest available average benchmark sales density for the store) increasing the previous convenience sales density figure in response to the evidence provided in the original peer assessment.

The same 3 scenarios were retained as before:

- (i) All floorspace comparison (non-food)
- (ii) All floorspace convenience (food)
- (iii) 50/50 split convenience/comparison

The estimated turnover was as follows;

**Table 4.2: Estimated Turnover of the Proposed Development (2025)**

Scenario	Convenience Floorspace (net sqm)	Comparison Floorspace (net sqm)	Conv Sales Density	Comp Sales Density	Conv Turnover	Comp Turnover
1	-	1,880 sqm	-	£4,500	-	£9.7m
2	1,880 sqm	-	£9,000	-	£16.3	-
3	940 sqm	940 sqm	£9,000	£4,500	£8.1	£4.8m

The applicant advises this demonstrates the comparison turnover will be approx. £9.7m and £16.3m for convenience in 2025. In reference to the third scenario the turnover would be £4.8m convenience /£8.1m convenience in 2025

The assessment also refers to the commitments likely turnover at Siddick road and Derwent Howe Retail Park (TkMaxx (no other commitments were identified)

These turnovers were estimated as being £11.4m at 2020 rising to £14.3m by 2025 for the Siddick road commitment and £5.1m at 2020 rising to £6.4m by 2025 for the TK Maxx commitment i.e. cumulatively totalling £20.7m at 2025.

Furthermore assessments were also calculated for turnovers under no development scenario's using the turnover of destinations including Carlisle city centre and Cockermouth town centre. The 2020 retail study demonstrates the principle comparison retail destination for residents in the study area is Workington Town centre which is estimated to capture some £141.1m of comparison goods expenditure in 2021, with the primary principle convenience destinations being Tesco, New Bridge Rd, followed by Morrison's at Derwent drive

The updated retail assessment also addressed trade diversions to the application scheme which considered the likely impact on stores/destinations (both within and beyond the catchment in 2025)

The extent of assumed diversions from Workington Town centre to the commitments and proposal is summarised as follows;

**Table 4.4: Cumulative Impact Assessment**

Scenario	Workington Town Centre Total Turnover	Diversion to Commitments	Diversion to Proposals	Total Diversion	Impact
1	£165.8m	£6.1m	£4.8m	£10.9m	6.6%
2	£165.8m	£6.1m	£0.2m	£6.2m	3.8%
3	£165.8m	£6.1m	£4.3m	£10.3m	6.2%

The applicant highlights that it is important to acknowledge the existing shopping patterns of residents in the catchment area, a high proportion of comparison trade will be diverted from out of centre destinations such as Dunmail Park and

Derwent Drive alongside the town centre, whereas the convenience trade will be principally diverted from out of town convenience stores.

The applicant highlights the original peer assessment findings that cumulative trade impacts (between 4.3-7.9%) would be unlikely to generate significant adverse impacts and the impact on the town centre in the town centre remains no higher than previously accepted, with minor percentage totals from all three scenarios.

The applicant contests the revised report arrives at the same conclusion that the modest trade impacts on the town centre will not be at a level which would result in a significant adverse impact.

Reference is made to the optional A3/A5 landuses in the applications, but consider any such landuses will have an ancillary role with no significant adverse impacts on the town centre.

The updated report concludes referring to the need for updating the original 2018 report and the publication of the recent retail study.

However it concludes its findings in terms of the sequential test are the same with no sequentially preferable available or suitable sites which could accommodate the development.

The updated evidence also contests that the development would not have any significant adverse impact on any existing, committed or planned investment in the defined centres or on the vitality and viability of Workington's town centre.

- 11.33 The peer retail assessment reviewed the details in the context of para 89 of the NPPF. It concluded the updated assessment of impacts at 2025 is considered reasonable. All the three separate scenarios were examined.
- 11.34 The potential retail turnover's increased figures for convenience sales densities reflect the peer assessors original comments are considered realistic. This results in an estimated turnover of between £9.7m and £16.3m depending on the scenario. Account has been made for the permitted schemes at Siddick Rd and TK Maxx.
- 11.35 The estimated town centre turnover figures are also considered more realistic reflecting the WCRTCLS 2020. The anticipated patterns of trade diversions are also considered broadly appropriate.
- 11.36 Cumulative trade impacts on the town centre range between 3.8%(scenario 2 –all convenience ) and 6.5% (scenario 1 –all comparison) which are below the initial assessment's figures 4.3%-7.9% but this arises from a higher estimated retail turnover of the town centre based on the more up to date findings of the WCRTLS. The peer assessor however emphasises the potential impact of the pandemic on the town centre (including the recent closure of the Debenham's store and therefore current circumstances should be accounted for when assessing the proposed forecasts).

- 11.37 The peer assessor acknowledges that the number of vacant units in the town centre is in line with the national average, with higher than national average vacancies for comparison stores. The proportion of convenience units in the town centre is below the national average. It is also observed the footfall, despite the pandemic increased from 2019 to 2020.
- 11.38 The peer assessor acknowledged the submitted updated health check, but states it's difficult to assess the impacts on the leisure and retail impacts (including the town centre). In the short term it appears that lockdown has accelerated online shopping growth placing extra strain on town centres. The loss of Debenhams anchor store will result in a large prominent vacant unit potentially reducing footfall in the town centre. However the period of this stores vacancy is uncertain. If so the vacant floorspace will increase from 14% to 28% which may have negative impacts on footfall and investor confidence in the town centre plus turnover (although the latter may be displaced to other town centre traders.)
- 11.39 Overall in the short term the town centre will be more vulnerable to trade impacts, than previously considered, but acknowledge that the percentage trade impacts are likely to be lower than previously estimated in the next five years. On balance it is considered that the development is unlikely to have significant adverse impacts on the town centre (subject to controls to mitigate impacts)

### **Retail/town centre impact summary**

- 11.40 Members are advised that the applicant's sequential and retail impact assessments have been robustly reviewed by the peer reviewer. Their advice corroborates the findings of the assessment and, as such, officers advise that the application accords with policies S16 and DM8 of the adopted Local Plan as well as the provisions of the NPPF, including paragraphs 86, 87 and 89.
- 11.41 In response to the peer assessors comments it is considered necessary especially as a speculative outline proposal with no specific trader, specific retail planning conditions are essential for comparison retail units to demonstrate compliance with the sequential test with the availability of Debenham's. This would restrict such convenience goods to bulky items which would not be suitable for the comparison goods at the vacant Debenhams site as there would be the need for close accessibility to parking facilities. (The applicant has agreed to this amended criteria.)

### **Design/ Landscaping**

- 11.42 Policy S4, S5 and DM14 seek the delivery of a satisfactory standard of design. The application as submitted is an outline with only the reserved matter of access to be considered.
- However it was also acknowledged that the site does have some defined constraints with the existence of the protected TPO treebelt along the eastern perimeter of the site and the known recorded presence of butterfly habitat along the corridor of the railway line itself.

11.43 As a consequence the applicant had identified a plan identifying a developable area for the site excluding more sensitive parts in the site and where applicable safeguarding sections of the site for mitigation purposes. Although layout remains an outstanding reserved matter, officers consider this plan is material to the application and therefore is considered in detail as part of the merits of the principle of the development.

The additional issues relating to appearance scale and landscaping (whilst retaining the landscaping area in the non-developable areas can be addressed as part of any future reserved matter application.

However the existing landscaping merits of the established planting on the site no doubt contributed to the sites inclusion under the designation SA52 re green infrastructure which are entwined along corridors within the Derwent Howe estate mainly along the former routes of the railway lines. This policy does not exclude development within these areas but seeks to ensure they retain and indeed their landscape and ecology potential. Officers consider these aspects can be secured by planning conditions.

### **Ecology**

11.44 Policy S35 of the Allerdale Local Plan seeks to protect the biodiversity of sites and safeguard the habitat of any protected wildlife species. The applicant acknowledges the biodiversity value of the site and there both an ecology report and more specifically an entomology report was submitted with the application. The inclusion of the butterfly assessment was direct result of known past recordings of small blue butterflies along this corridor especially as its unmade ground provided an environment for the growth of kidney vetch which acts as the foodplant for the small blue larvae.

Policy SA52 also incorporates ecology as part of its objectives for any new development within its designated areas of Green infrastructure.

11.45 The application is supported by a range of separate ecology reports.

(i) Ecological appraisal

11.46 The applicants overarching ecology impact assessment report relates to Phase 1 habitat surveys undertaken in Dec 2017 and a botanical check in Aug 2018 (to identify areas of kidney vetch) - plus reference to an earlier survey in July 2015.

The nearest designations are the River Derwent and Bassenthwaite Lake SAC and SSSI (1.8km) as well as Siddick Pond SSSI (1.6km) which is also designated as a nature reserve. Given these separation distances with no linkages it is unlikely the proposed works would impact these designations.

Additional County wildlife sites are located at Oldside (1.8km) and Barepot (2km) It was acknowledged that there is one UKBAP priority habitat within the site boundary and five others within 2km.

The applicant's assessment concluded the vegetation at the site, with no watercourse within 500m was not suitable for Otter, Water vole or White clawed

crayfish. No records of greater crested newts are within 1km with no ponds within 500m.

The sites plantation woodland is suitable for nesting birds (less than local value), with no evidence of, or suitable habitat for barn owls with low foraging potential. There are no records of badgers at the site or within 1km with unsuitable ground conditions for setts with built development not being suitable for badgers to the east, although it is possible that foraging may occur from any possible badgers from the west (less than local value) .

Similarly no records of red squirrels within 1km and the habitat is not suitable for this species but may possibly act as a commuting route (less than local value).

Reference was made to the possible use of the site for foraging by hedgehogs and common toads have been recorded within 0.5km of the site (albeit no suitable ponds for breeding) (less than local value)

There was potential for bat, butterfly and reptile habitat and these were the subject of separate surveys.

The Phase 1 acknowledges the December survey was not able to address vegetation. Given the lack of habitat management it is not envisaged there will have been any significant change since the original 2015 survey.

The report refers to both short term impacts (during and post construction) and longer term impacts (permanent loss of habit and disturbance e.g. lighting).

The report initially recommends possible off site compensation, but this has been modified through plan excluding habitat islands/ corridors from the developable areas.

Mitigation measures are recommended for bats and reptiles.

The small blue butterfly will be the subject of a botanical survey with the careful stripping of identified turfs containing kidney vetch during the construction period and the adoption of a Small Blue management plan (protecting an area at the north of the site. Felling operations will be undertaken outside bird breeding season. Existing Invasive species on the site (including Japanese Knotweed) will be removed.

The report concludes the sites mixed deciduous woodland on a colonised area of the rail track and sidings which is recorded in the BAP priority habitats Inventory, with all habitats are likely to be lost due to the development.

Protected and notable species likely to use the site include Invertebrates; Small blue, Dingy skipper, Wall, Small Heath and Grayling butterfly and Cinnabar moth, reptiles e.g. common lizard, bat species and red/amber bird species.

Given the above details some species required their own bespoke surveys.

(The report acknowledges its findings only are relevant for a 1 year timescale.)

## (ii) Reptiles

- 11.47 A reptile survey was undertaken (May –Sept 2018) did not identify any reptiles at the site, with reference that there may be disturbance arising from dog walkers using the informal footway. However it acknowledges the potential for reptiles on the site. E.g. common lizard and therefore recommends a range of mitigation measures (e.g. during clearance) to address this issue.

(iii) Bats

11.48 A dawn /dusk bat survey was also undertaken (April-Sept 2018) at two differing locations on the site. Seven bat recordings occurred in May survey, ten and seven in two separate surveys in June, seventeen in July 11 in August and thirty one in September. The surveys however suggests the roosts are unlikely at the site.

The report concludes that the overall 45 sightings over 60 nights (both dawn /dusk and remote monitoring is considered to be low level activity and the site is primarily used as a foraging corridor. it is therefore considered of low value to bat species but there would be impacts during construction and long term. The significance of the impact is considered to be low and a range of mitigation measures is recommended.

(iv) Entomology

11.49 An entomology survey was also undertaken to identify what type of insect species are present at the application site. It comprised of four surveys between May August 2018. (plus a separate kidney vetch survey in 2019 to identify the extent of this plant food on the site)

During these surveys there were recordings of 15 butterfly species, 11 day flying moths and 11 bees /wasps with no dragonflies /damselflies. These included the Small blue (9 sightings), Small heath (32 sightings), Shaded broad bar (4 sightings) and Cinnabar (4 sightings which are recorded Biodiversity framework priority species and/or Species on Cumbria Biodiversity Action Plan.

11.50 Reference is made to each species:

- Small blue – this species has gone into severe long term decline and is well suited to brownfield sites where the caterpillar's sole food plant kidney vetch grows. West Cumbria is the only place where it can be found north of Gloucester. The species is coming under pressure with the redevelopment of brownfield sites. The May 2018 found two small areas of kidney vetch, with additional recordings in the same areas in July/August. The extent of kidney vetch has declined substantially in recent years , with the former 2015 survey indicating it was abundant along the railway line in the 2015 survey, with the botanical survey 2018 finding no kidney vetch(although it might have been outgrown by other species.
- Small heath identified as a priority species following long term decline and is nationwide. The land at the application site is suitable habitat with its larvae feeding on a range of grasses and vegetation some of which is present on the site.
- Dingy Skipper – Priority species found mainly on coastal grasslands and brownfield sites. Although suitable habitat none were recorded.
- Shaded broad bar Priority species with this moth being commonly distributed across the county. Some of this species was recorded at the site.
- Cinnabar – biodiversity Framework priority y species and BAP species moth, common species nationwide and in coastal locations in Cumbria (including areas around the port of Workington, disused railway lines and

around the former steelworks often on fragmented brownfield sites. The habitat is focused on open grassland including waste ground.

- 11.51 Given the above details it was concluded the site was of County value for its insects especially butterfly communities. The study assessed the assessment of effects from the proposed works with the worst case scenario being the loss of the species their habitat food plants and nectar resources, with their displacement being highly precautionary. However the populations of the grassland specialist species (Small blue, Small heath, Shaded broad bar and Cinnabar) would be lost from the site due to the loss of habitat and food unless mitigation/ compensation is provided. Thus the development without any migration would have a major adverse impact, particularly on the Small Blue population.
- 11.52 The applicant is committed to improving the ecological value of the site and the disused railway lines which support the small blue butterfly. The applicant therefore proposes mitigation measures which would also benefit the other priority butterfly/moth species. The mitigation will include – The identification and stripping of any identified kidney vetch through a botanical survey prior to the commencement of construction works to enable them to be stripped as turfs during Feb/March) During the operational use of the site an area to the north where small blue and kidney vetch were identified will be cordoned off to protect this habitat. This 888sqm gravel bed. This supersedes the area to be lost 444sqm by a ratio of two to one site will the subject of a small blue management. Plan (including surveys transfer of turfs replanting of grassland habitat including kidney vetch, create a more open grassland environment for the butterflies.
- 11.53 It was evident to officers that the site did contain important insect species. However, the applicant was indicating a decline in Kidney Vetch on the site between the 2015 and 2018 species. There were also detailed objection and representation issues to this specific aspect of the development. Therefore in order to evaluate this aspect in greater detail the Council commissioned their own independent butterfly survey in 2019.
- 11.54 The survey was undertaken on six occasions between May and August 2019 and examined the wider disused railway corridor of the site between Lakes Road and Isabella Road to ascertain the mobility of the species and their relative value rather than solely confine it to the site, especially considering the absence of any barriers along the corridor.
- 11.55 The peer report concurs that the development, in the absence of linkages, would impact on the river Derwent SAC designation, nor Siddick ponds SSSI. The closest locality designated site is Oldside County Wildlife site (approx. 1km north) which is known to support kidney vetch and one of the largest populations of small blues species. Given the absence of linkages it is not considered to have any impact on the designation but it is not certain that the development of the site would not impact on rare, scarce an protected species present on both the railway corridor and the Oldside CWS.



- 11.56 The report refers to the recorded evidence of identifying the presence of rare species in former survey with 219 sightings of rare species within 1km. The historic records of the sites suggest the presence of this corridor since at least 1866, with the railway removed sometime after 2008.
- 11.57 The assessment also refers to its multitude of habitats along the corridor including the open grassland along the track bed with no formal management. The most important of this is the open mosaic habitat which is within previously developed land which are often important for many BAP priority /red data list species. Kidney vetch was identified within the application site.
- 11.58 The surveys identified 18 butterfly species 4 of which are Biodiversity Framework and Cumbria Biodiversity Action plan species: Dingy Skipper, Wall Small Blue and Small heath, with the additional high levels of Painted lady
- 11.59 The outcome of the peer surveys were:  
Dingy skipper- total 20 along entire length of the corridor (including on the application site confirming its habitat abundant vegetation food species)  
Wall butterfly- total 12 with one recorded on the application site confirming its habitat.-abundant vegetation food species  
Small Blue -total 86, 3 within the application site (including a mating pair). Kidney vetch has a patchy distribution with occasional patches with some established patches (10sqm) within the boundary of the application site (where the mating Small blue butterflies were observed (a higher level of kidney vetch exists on other parts of the corridor- habitat supports breeding population of these species.  
Small heath- total 25, seen throughout the survey area including the application site –recoded as suitable habitat for this species.
- 11.60 The peer report highlights these four species have been in decline 1976 -2014 in occurrence with their abundance in these areas also decreasing with only the small blue experiencing a subtle increase. The report considers the small blue is the most specialised species which is dependent on its larvae feeding on kidney vetch which is common along the railway ballast. Although this vegetation can quickly colonise bare ground it can be overshadowed if not managed. The report also highlights small blues are weak fliers (assumed average dispersal distance 200m and fly close to the ground but there are records of 762m flights., thus they will, especially with the presence of the woodland not disperse out of the railway corridor, especially as there are no barriers along the route.)  
The report highlights the provision of a butterfly mitigation strategy for the Persimmon housing development on the former steelworks, which was implemented at the northern end of the access corridor. The subsequent development of a fast food restaurant has resulted in a 380m gap between the managed mitigation site steelworks and the steelworks site hindering connectivity and despite the absence of any barriers movement is unlikely along the route of a road.  
The report also refers to additional experimental butterfly mitigation works undertaken as part of the Workington railway station development which involved the provision of scrapes on northern and southern ends of the Howe (Workington

slag banks ) which were seeded with Kidney with mixed results which whilst the extent of kidney vetch becoming established was limited prompting no translocation of butterflies to the planted area, they were naturally colonised by the small blue from the railway corridor linkages. The report considers that if the connectivity is lost the linkages along the line and the Howe would be lost which may lead to genetic isolation and inbreeding depression. The existence of Kidney vetch within the site is a vital stepping stone providing a north south link. The loss of such connectivity would be contrary to chapter 15 of the NPPF and policy S35 of the local plan.

(v) Ecological appraisal update

- 11.61 As a result of the assessment of the various constraint of the development, it became evident that the original ecological appraisal evidence was out of date. Officers therefore sought an update which was submitted in July 2021 (which represents a more preferable season than the original)

It concluded the original survey mitigation measures remain valid. The trees should be preferably be retained and the replanting around the perimeter will ensure that wildlife linking habitat will be recreated, plus wildflower planting. Additional mitigation via bat boxes, tree protection plan, siting and species of planting, lighting controls, methodology to treat any reptile species identified during works, site cut to a short sward in the first year prior to the commencement of works. In reference to invertebrates botanical survey to identify and transplant any turfs of kidney vetch, and a small blue management plan to protect the existing northern colony and preplacement perimeter corridor sites, plus surveys prior to construction, agreement of vegetation species for the replacement strip (ensuring stepping stones of kidney vetch and scrub removal. Furthermore the felling works should be undertaken outside the bird breeding season (March –September), plus replacement bird boxes. The works should be undertaken in accordance with good practice.

It concludes that the site is a narrow band of lowland mixed deciduous woodland which provides landscaping and open mosaic habitat on the previously developed land of the railway track. These are on the UK BAP priority habitats inventory and are primarily of interest for the species they support. All habitats are likely to be affected lost as a result of the development. The 2021 are comparable to those recommended in 2018 and the measures in the other species reports remain valid.

- 11.62 Officers acknowledge the importance of these environmental considerations to the development which as to be balanced alongside the economic benefits associated with the works.
- Under the criteria of the NPPF whilst the emphasis is normally to avoid such impacts in this case it is considered unavoidable due to the irregular linear shape of the site with the railway corridors themselves forming distinctive separate central lines through the site. Furthermore the limited and patchy nature of the kidney vetch would hinder the means to develop around it.
- The applicant has therefore sought to provide alternative on-site compensatory measures through the securing of an area at the northern end of the site which

will be free of development and under the small blue management plan which could enhance its value. The applicant in response to the comments relating to connectivity has amended the scheme to provide a definitive corridor down the western side of the site and island area within the site to enable continued migration through the site (which reasonably represents the only areas within the applicant's control. These areas are excluded from the application's developable area and will be integrated within the layout details of any future reserved matters application. (The council are investigating any potential breaches on the KFC site which undermine connectivity along the corridor.)

Whilst the peer assessor has verbally advised that he would seek the implementation and delivery of these areas well in advance of any development, officers consider this would be unreasonable as it may hinder the long term delivery of the site.

Officers attach weight that Natural England do not object to the merits of the scheme. Whilst reference is made to the need of biodiversity gain, the recent Environmental Bill allows for a transitional period for long standing applications thus only compensatory measures are only sought at this stage - to be secured under the conditioned biodiversity plan and landscaping details.

### **Flood Risk and Drainage**

- 11.63 Policy S29 of the Allerdale Local Plan seeks to ensure satisfactory surface water drainage details and minimise the risk of flooding.
- 11.64 The site is located in Flood Zone 1, the zone at least probability of flooding from rivers and the sea and, sequentially, the preferred location for development.
- 11.65 For surface water drainage, ground conditions are not suitable for infiltration and this discharge method is considered to be the most appropriate and accords with the drainage hierarchy detailed in policy S29 and the NPPF.

### **Contamination**

- 11.66 Policy S30 outlines the criteria for the reuse of land which includes addressing any contamination.
- 11.67 The application was supported by a ground investigation report including a preliminary ground investigation report. The Coal Authority also raise no objections based on the original plan (confirmation is awaited on the amended developable area plan). Allerdale's Environmental Health Officer raise no concerns on this issue. The proposal therefore complies with policy S30 of the Allerdale Local Plan (Part 1)

### **Residential Amenity**

- 11.68 Policy S32 seeks to ensure that the residential amenity of communities is maintained to an appropriate level.

11.69 The application site is located in a predominantly commercial /industrial sector of the town which is a substantial distance from residential districts. Given this separation distance and the nature of the proposed landuses proposed it is considered the proposed works would not have any adverse impact on residential amenity (The Environmental Health officer raises no objections on this issue and is solely concerned in addressing any contamination on the site.)

### **Access and Parking**

11.70 Policy S22 outlines the criteria of transport principles seeking sustainable objectives i.e. improving travel choice and trips by non-car modes but securing satisfactory means of access, parking and turning for both public and commercial residual traffic.

11.71 The site lies within a commercial area of Derwent Howe estate and is associated retail parks within the Principal Service Centre of Workington. The applicant seeks the site to be served by a new western vehicular access link off the existing mini roundabout junction that serves Morrison's/B&Q/Curry's on Derwent Drive. There are other footpath links on Derwent Drives carriageway to link to other parts of the surrounding area. A bus stop is located within the immediate vicinity of the roundabout junction which is supported by a regular bus service. The railway station is also within an acceptable walking distance of the application site although it is accepted that customers to a predominantly convenience store are unlikely to travel by train, but it does offer sustainable accessibility for employees.

11.72 A secondary ancillary access to act solely as a service road is proposed via Lakes Road but the level of any such traffic will be limited as it is constrained by its proximity to the multiple junctions at this end of Lakes Road.

11.73 The application was supported by a transport assessment Initially the highway authority considered insufficient evidence had been provided especially in evaluating the capacity of the existing roundabout junction which supports a high volume of traffic from the surrounding landuses. However further to the submission of additional evidence the details have been accepted by the County highway authority.

Therefore from a transport perspective the development is considered sustainable location with good connective links to the public transport terms of vehicular traffic, the proposal incorporates a new access to the highway

11.74 Overall, the County Highways Authority raise no objections subject to planning conditions to ensure the access and off-site works are completed to an appropriate standard. The highway merits of the scheme are therefore considered acceptable.

11.75 The NPPF, at Paragraph 80, states 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. The approach taken should allow each area to

build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

### **Economic Benefits of the Proposal**

- 11.76 To achieve the economic role of the planning system of contributing to building a strong, responsive and competitive economy, it is recognised that the proposal would have economic benefits. The proposal in redeveloping this brownfield site would create further employment and its investment would support the economic growth of the area.
- 11.77 In accordance with Paragraph 80 of the NPPF, the economic benefits of the proposal and the resulting support to economic growth carries 'significant weight'. The proposals would make a positive and contribution in terms of further investment within Workington and the creation of further employment opportunities and its redevelopment would result in a long term vacant derelict and redundant area of land back into use.

### **Local Financial Considerations**

- 11.78 Having regard to S70 (2) of the Town and Country Planning Act the proposal will have financial implications arising from New Homes Bonus and Council Tax Revenue.

## **12.0 Conclusions**

- 12.1 The proposal accord with the provisions of the Allerdale Local Plan 2014. It considered to represent a sustainable form of development. Whilst there are recognised concerns on any impact on the town centre, especially given recent changes of circumstances in the occupancy of units in the town centre, the applicant has submitted satisfactory evidence to demonstrate that will not significantly adversely impact on Workington Town Centre and it has been robustly evidenced why other, sequentially preferable sites in the town centre and edge of centre (some of which have only evolved in the intermediate time between the two retails surveys are not suitable (including those sites that have recently become vacant). Whilst as an outline proposal the applicant has sought flexibility to enable its future marketing, it has been agreed that measures be applied to restrict any aspect which could impact on the town centre
- 12.2 The design and layout aspects would be addressed under any reserved matter application and additional aspects such as highways drainage, ecological impact and contamination can be satisfactorily mitigated by planning conditions.

## **RECOMMENDATION**

**Subject to the receipt of additional ecological surveys (including mitigation which are acceptable to Natural England) GRANT PERMISSION SUBJECT TO CONDITIONS**

**Annex 1**

## **CONDITIONS**

### **Time Limit:**

- 1. Before any development commences, details of the layout, scale and appearance, and landscaping (hereinafter called 'reserved matters') shall be submitted to and approved by the Local Planning Authority.**

Reason: The application has been submitted as an outline application, in accordance with the provisions of the details of the Town and Country Planning (Development Management Procedure) Order 2015. In order to comply with Section 91 of the Town and Country Planning Act 1990.

### **In Accordance:**

- 2. Approval of details of the scale and appearance of the building(s), and the landscaping of the site (thereinafter called the 'reserved matters') shall be obtained in writing from the Local Planning Authority before development is commenced and shall be carried out as approved.**

Reason: To enable the Local Planning Authority to assess all the details of the development.

- 3. The development hereby permitted shall be carried out in accordance with the following plans:**

**Amended Dwg SK001 Indicative potential parking design planting 2-9-19**

**Amended Dwg 14 Plant specification and schedule 2-9-19**

**Location plan**

**Flood risk and drainage assessment rev A092014 Rev A (29/10/18)**

**Developable Areas A 04/05/21**

**Amended drawing No 13 planting plan 19/04/21**

**Preliminary Ecological Appraisal update July 2021**

**Elliot reptile survey report September 2018**

**Bat Survey report September 2018**

**Entomology report October 2018.**

**E-mail re comparison goods dated 17/5/21**

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.

- 4. The submission of all reserved matters applications shall be made no later than the expiration of 3 years beginning with the date of this permission**

**and the development shall begin no later than whichever is the later of the following dates:**

- (a) The expiration of 3 years from the date of the grant of this permission, or**
- (b) The expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.**

Reason: In order to comply with Sections 91 and 92 of the Town and Country Planning Act 1990.

- 5. The development of the reserved matters of scale and appearance shall be confined to the defined “developable area outlined on the plan ref : Developable areas; A (dated 04/05/21)**

Reason: To safeguard existing landscape (including trees protected by a Tree Preservation Order) and ecological features and habitats at the site in compliance with policy S33 and S35 of the Allerdale local plan (part 1)

- 6. The cumulative total of the commercial floorspace of the reserved matters under condition 1 of this consent shall not exceed 2350sqm.**

Reason: To ensure that the development complies with the terms of the planning application and that the retail impacts of the development are not greater than is anticipated in the retail impact assessment accompanying the application and to safeguard the vitality and viability of the town centre, in compliance with Policies S16 of the Allerdale Local Plan (Part 1) 2014.

- 7. Before development commences, a detailed method statement for the long-term management/eradication of invasive species on the site (including Japanese Knotweed) shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of Japanese Knotweed during any operations such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds, roots or stem of any invasive plant covered under the Wildlife and Countryside Act 1981. Development shall proceed in accordance with the approved method statement.**

Reason: To avoid the spread during construction works of an invasive and prohibited plant species in the interests of avoiding harm to the environment.

**Pre-commencement conditions:**

- 8. Prior to the commencement of works a detailed scheme of land contamination site investigations (including any remediation measures) to identify and remediate any unacceptable risks to human health, controlled waters or the wider environment shall be submitted to and approved 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.

- 9. Prior to the commencement of works a scheme of hard and soft landscaping which shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for the protection in the course of development, shall be submitted to and approved by the Local Planning Authority. All planting, seeding or turfing comprised within the scheme 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 with Policy S33 of the Allerdale local plan (Part 1).

- 10. No part of the development hereby permitted shall be commenced until a plan has been submitted to and approved by the Local Planning Authority to show all existing trees which are to be felled or retained, together with the positions and height of protective fences, the areas for the storage of materials and stationing of machines and huts, and the position and width of temporary site roads and accesses. The details so approved shall be implemented prior to the commencement of the development and maintained at all times during the construction period.**

Reason: In order to ensure that adequate protection is afforded to the existing trees on the site prior to any excavation/construction works on the site.

- 11. No development shall commence until a sustainable surface water drainage scheme including a timetable for implementation has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be in accordance with the principles of the submitted Flood Risk & Drainage Assessment, ref A092014 Revision A dated 29 October 2018 and also in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. No surface water will be permitted to drain directly or indirectly into the public combined/foul sewer. The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.**

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.



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

Reason: To safeguard against flooding to surrounding sites and to safeguard against pollution of the watercourse running through the site.

- 13. Prior to commencement of works a Biodiversity Management Plan (including a Environmental Construction Management plan) to demonstrate biodiversity gain shall be submitted to and approved by the local planning authority . The plan shall include details on measures and details to be implemented during and after the course of construction works at the site to safeguard the habit of protected species at the site in accordance with the principles and recommendations of Section 6 of the Preliminary Ecological Appraisal update July 2021, Section 5.2 of the Elliot survey report September 2018 and dated August 2019 and section 5.3 of the Entomology report October 2018. The works shall be implemented solely in accordance with the approved details and thereafter managed at all times in accordance with the approved scheme.**

Reason: In the interests of safeguarding local wildlife and biodiversity in compliance with Policy S35 of the Allerdale Local Plan (Part 1) 2014.

- 14. The development, or part thereof, shall not commence until the drafted roundabout improvement (shown on drawing number A092014-C003) has been suitably amended in accordance with the safety audit recommendations (Report no. A092014/RSA1); a full roundabout specification including a further safety audit shall be submitted to the Local Planning Authority for approval. The roundabout improvement shall be constructed in accordance with the approved specification by the Local Planning Authority).**

Reason: To ensure a minimum standard of access provision when the development is brought into use and to ensure that vehicles can be properly and safely accommodated clear of the highway.

- 15. The carriageway, footways, footpaths, cycleways etc. shall be designed, constructed, drained to the satisfaction of the Local Planning Authority 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.

- 16. Development shall not be begun until a Construction Phase Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:**

- **Details of proposed crossings of the highway verge;**
- **Retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;**

- **Cleaning of site entrances and the adjacent public highway;**
- **Details of proposed wheel washing facilities;**
- **The sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;**
- **Construction vehicle routing;**
- **The management of junctions to and crossings of the public highway and other public rights of way/footway; rights of way**

Reason: To promote sustainable development, and in the interests of highway safety.

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

- 17. Should a remediation scheme be required under condition 7, 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.

- 18. 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 work shall be undertaken in accordance with current UK guidance, particularly CLR11.**

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.

- 19. No part of the development hereby approved shall be brought into use until the access and parking requirements have been constructed in accordance with the approved plan. The access and/or parking provision shall thereafter not be removed or altered without the prior consent of the Local Planning Authority. In all other respects, the approved parking, loading, unloading and manoeuvring areas shall be kept available for those purposes at all times and shall not be used for any other purpose.**

Reason: To ensure a minimum standard of access provision when the development is brought into use and to ensure that vehicles can be properly and safely accommodated clear of the highway.

- 20. There shall be no public vehicular access to or egress from the site other than via the approved access, unless otherwise agreed by the Local Planning Authority.**

Reason: To ensure a minimum standard of access provision when the development is brought into use and to ensure that vehicles can be properly and safely accommodated clear of the highway.

- 21. No part of the development hereby approved shall be brought into use until details of measures to prevent non-delivery vehicular access via the access at the south west of the site have been submitted and agreed by the Local Planning Authority.**

Reason: To ensure a minimum standard of access provision when the development is brought into use and to ensure that vehicles can be properly and safely accommodated clear of the highway.

- 22. The approved layout reserved matters shall demonstrate the provision of footways which shall link continuously to the existing footpath highway infrastructure on the sites frontage onto Derwent Drive. The approved footway details shall be implemented prior to the occupation of any commercial building hereby approved.**

Reason: In the interests of highway safety, accessibility by sustainable transport modes and to minimise potential hazards and to ensure that pedestrians and people with impaired mobility can negotiate the site in relative safety.

- 23. A landscaping management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority prior to the occupation of any commercial units or any piece of the development, whichever is the sooner, for its permitted use. The development shall thereafter be maintained at all times in accordance with the approved management plan.**

Reason: To ensure the long term maintenance and management of public open space within the residential estate in compliance with Policy S32 S33 and DM17 of the Allerdale local Plan (Part 1).

- 24. Foul and surface water shall be drained on separate systems.**

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

- 25. Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum: a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime. The development shall subsequently be completed, maintained and managed in accordance with the approved plan.**

Reason: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

- 26. The development shall be implemented solely in accordance with the mitigation and recommendations outlined in Section 6 of the Preliminary Ecological Appraisal update July 2021, Section 5.2 of the Elliot reptile survey report September 2018, Section 5.3 of the Bat Survey report September 2018 and section 5.3 of the Entomology report October 2018.**

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.

- 27. No part of the development hereby permitted shall be built above plinth level until there has been submitted to and approved by the Local Planning Authority details of the siting, height and type of all means of enclosure / screen walls / fences / other means of enclosure. Any such walls / fences shall be constructed prior to the approved buildings being brought into use. All means of enclosure so constructed shall be retained 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 accordance with Policy S4 of Allerdale Local Plan (Part 1) Adopted July 2014.

- 28. Prior to the commencement of the use of the site, a lighting impact assessment of the development's lighting scheme (including siting and design), details of all lamps plus levels and hours of illumination by a qualified engineer shall be submitted to and approved in writing by the Local Planning Authority . Unless otherwise agreed in writing by the Local Planning Authority any lighting details should be solely be implemented and operated in accordance with the approved details.**

Reason: To minimise the impact of the developemnt on bat species in the locality from the operational use, in compliance with the National Planning Policy Framework and Policy S35 of the Allerdale Local Plan (Part 1), Adopted July 2014.

- 29. Any comparison retail floorspace hereby permitted shall only be used for the sale of DIY products (including materials and accessories), home improvement products, carpets and floor coverings, furniture, white and electrical goods, automotive and cycle parts, pet supplies, gardening supplies, tents, camping, caravanning, leisure and outdoor equipment, together with the ancillary sale of fabric, soft and hard furnishings, homewares, decorative products, glassware, cookware and kitchen utensils or related accessories for all of the aforementioned or the provision of ancillary café facilities for the consumption within the premises.**

Reason – In order to ensure the proposed development does not adversely affect the vitality or viability of Workington town centre in order to comply with Policy S16 of the Allerdale Local Plan (part 1)

Please note: Public Footpath 262026 runs across the proposed development site close to the southern end of the site and will require a formal diversion or must not be altered or obstructed before or after the development is completed. If it is to be temporarily obstructed then a formal temporary closure will be required.

