

Allerdale Borough Council

Planning Application FUL/2019/0210

Development Panel Report

Reference Number: FUL/2019/0210
Valid Date: 30/08/2019
Location: Land at New Bridge Road, Workington
Applicant: c/o Rapleys LLP
Proposal: Erection of a new discount foodstore with car parking, landscaping and other associated works.

RECOMMENDATION

That the decision is to grant permission subject to conditions and a section 106 agreement securing the delivery of biodiversity enhancement, the surface water drainage outfall and foul drainage connection.

1.0 Summary

<u>Issue</u>	<u>Conclusion</u>
Principle of Development	The proposed retail store is considered a 'town-centre' use and so the application is subject to a 'sequential assessment', (in order to discount other available sites which are sequentially preferable) plus a retail assessment (to demonstrate that the impact upon the vitality and viability of the town centre is acceptable).
Sustainability of location and highway safety	The site is in a sustainable location. The access and parking proposed for vehicular trips are acceptable given the sustainable location, which will attract trips by non-motorised users.
Landscape/Ecology	<p>The site is within the Lower Derwent Valley designation (SA49) and is also included inside the wider river corridor's designated Green infrastructure (SA52) in the Allerdale Local Plan Part 2.(ALPP2)</p> <p>There will be no adverse impact on the Special Area of Conservation (SAC) designation of the River Derwent, subject to mitigation. These conclusions reflect the 'Appropriate Assessment' under the Habitat Regulations. Biodiversity gain can be secured by an s106 legal agreement.</p>
Design and Layout	These are considered satisfactory.

Heritage	The proposed development would not harm the setting of the nearby listed buildings and the character and appearance of the St. Michael's Conservation Area would be preserved. The proposal complies with policy S27 of the ALPP1.2014.
Flood Risk and Drainage	The site is in flood zone 1, the area at least probability of flooding and sequentially the preferred location for development. Drainage infrastructure requirements can be secured by an s106 legal agreement.

2.0 Proposal

- 2.1 The proposal is for a 1900 m² retail store (1004m² convenience and 252m² comparison sales floor area, the remaining areas being ancillary storage etc.) on an area of undeveloped land on the southern side of the River Derwent abutting the eastern edge of the A597 highway. (Convenience goods are items purchased for everyday living e.g. food, drinks, toiletries etc. Comparison goods are defined as those which consumers purchase relatively infrequently and so they usually evaluate prices, features and quality levels before making a purchase). The proposed occupier is Lidl and they have a standard format of an element of comparison goods within an aisle flanked and fronted by convenience goods. They intend to replicate that format at this site.
- 2.2 The development is to be accessed by a new single vehicular entrance off the A597 which serves the 122 parking spaces, plus cycle stands. The access arrangements also incorporate a stub continuation of the access road providing the capacity and capability to serve additional development at the rear. However, members should note that this application does not include that land to the rear.
- 2.3 The design of the store reflects the applicant's standard store design (similar to that implemented in Maryport and Cockermouth) with a contemporary mono-pitched roof design and glazed/panelled elevations.
- 2.4 The development would generate 40 full time equivalent ("FTE") jobs.
- 2.5 The Plans and documents for consideration are:-
- Amended application form 19/11/21 re applicant
 - 104B Site Access
 - 07714-SPACE-00-GF-DR-A-01-0001-S3-P1 Ground Floor
 - 07714-SPACE-00-RF-DR-A-02-0001-S3-P1 Roof
 - 07714-SPACE-00-XX-DR-A-02-0001-S3-Rev P3 Elevations 20/10/20
 - 07714-SPACE-00-XX-DR-A-90-0001-S3-P4 Site Location Plan
 - 07714-SPACE-00-XX-DR-A-91-1008-S3-P4 Boundary Treatment
 - 07714-00-XX-DR-A-91-1001 S3 Rev P16 Site plan
 - Dwg AMS TPP Rev C Aborocultural method statement
 - AMS TPP Rev C Tree protection plan

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

The above documents can be viewed on-line at:-

<https://alderdalebc.force.com/pr/s/planning-application/a3X3X000004DMnGUAW/ful20190210?tabset-e3f5c=2>

3.0 Site

- 3.1 The site is 1.3ha of generally level, undeveloped scrubland sited within the valley floor of the River Derwent in Workington. It is located in a wider area of mixed commercial and recreational land uses.
- 3.2 A short line of six mature Swedish Whitebeam trees to the south of the site are protected under a Tree Preservation Order.
- 3.3 A Tesco's store forms the southern border of the site. To the north of the site is open land, England Coast Path footpath and the River Derwent. This section of the path is in poor condition with littering and broken glass. The A597 is the eastern edge to the site with the Workington AFC ground (Borough Park) on the opposite side of the road.

3.4 St. Michael's Conservation Area is located approximately 450m to the south. This area includes the Grade II* listed buildings of St. Michael's Church and St. Michael's House and the Grade II listed John Pirt's engineering works.

4.0 Relevant Planning History

4.1 Planning permission was previously granted on the site for a public house /restaurant with associated living accommodation, car parking landscaping and new access (ref 2/2017/0255). The permission was varied under (ref 2/2017/0499) for changes to the level and siting of the building.

4.2 As the current proposal constitutes Schedule 2 development under the provisions of the Environmental Impact Regulations 2017 a screening opinion was undertaken (ref SCR/2019/0005). It was determined that the proposal was not EIA development.

4.3 This application was approved by members at the Development Panel meeting on 17th December 2019. The decision was the subject of judicial review in the High Court by Tesco on two grounds relating to application of the sequential test and assessment under the Habitat Regulations. The Council did not contest the first ground and the decision was quashed.

4.4 The applicant has since updated the application and submitted additional evidence in support including biodiversity enhancement on adjoining land.

4.5 A nearby application FUL/2019/0018 for the demolition of the Borough Park and redevelopment of the site to provide a sports stadium (use class D2) that incorporates a hospitality /conference suite (class D1/D2), community facility (class D1), Café (class A3) and office space (class B1a) and an outdoor sports pitch (class D2) with access, parking and landscaping on the opposite side of New Bridge Road, remains undecided.

4.6 A Travelodge hotel, Costa café and drive-through takeaway, approved under 2/2018/0499, have been developed on land to the south of the roundabout junction since the submission of the current application before members.

5.0 Representations

Workington Town Council

5.1 Concerned by the outcome of sequential testing and disagree that it is the only viable site as they think other sites have potential, particularly Central Car Park, but it was accepted this would require some design output. There was also concern on the impact on traffic and the site is not conducive to pedestrian access and the traffic would be different to that of the public house which had been originally planned for the site. The Town Council had not opposed the former public house scheme because it was considered that it had the capacity to enhance the character of the area through its prominent

position whereas the unimaginative design and nature of the proposed food store does not contribute at all.

Cumbria County Highways Authority

- 5.2 The amended layout's inclusion of the continuation of the existing cycle/footway is welcomed and needs to be secured by condition. Advise no objections to the amendments subject to planning conditions and a contribution towards a scheme under consideration by the highway authority; Duke Street is presently a rat run for vehicles travelling to Station Road which is impacting on the safety of the street. It is accepted there is a previous approval for a smaller building on the site. Seek a £5k contribution to account for the traffic generated by the development, to be used within a 5 year timescale. (No details were provided by the Highways Authority to qualify what measures the requested commuted sum would be invested in.)

Cumbria County Rights of Way Officer

- 5.3 Advise there are no public rights of way within the vicinity, but the England Coast Path does follow the River Derwent to the north of the site, with the consequent need to consult Natural England.

Cumbria County Minerals and Waste

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

Cumbria Constabulary

- 5.5 It is evident that that the potential for crime and disorder have been accounted for in the proposed design and layout, with good levels of external lighting. Recommend doors on the north elevation meet specific standards.

Highways England

- 5.6 No objections.

Northern Gas Network

- 5.7 Following discussions and a range of mitigation measures including a concrete slab across the access driveway entrance to the site, they have withdrawn their initial objection.

Coal Authority

- 5.8 In assessing the applicant's Geo Environmental Statement, it is recommended a condition be added requiring site intrusive investigations prior to commencement of development. The coal mining addendum advises "there is a very low to negligible risk to the subject site from shallow workings". The Coal Authority therefore has no objections.

United Utilities

- 5.9 Seek the surface water drainage to be undertaken in accordance with the national drainage hierarchy. Support the proposed surface water drainage details submitted with the applicant's evidence. Seek any foul sewer connection to be to an adoptable standard. It is recommended that the drainage details and their future maintenance be reserved under planning conditions. In response to the later amended sewer connection (dated 6/5/21), they advised they had no objections subject to a planning condition requiring the development to be undertaken in accordance with the principles of applicant's Flood Risk and Drainage Impact Assessment document with surface water drainage to a watercourse.

Environment Agency

- 5.10 Contamination – during construction they consider there is an unqualified risk of contamination to controlled waters (River Derwent). They consider further evidence is required, but the provision of additional information prior to determining the application would be unreasonable - this decision rests with the local planning authority. Seek conditions on contamination and a remediation strategy (without which they would object). Also refer to their own environmental permitting regime for works within 8m of a main river or 16m if tidal. They confirm the site is within Flood Zone 1 with the need to evaluate finished floor levels. They also refer to the foul water discharge and the option to utilise the sewer in the area, which would require the consent of United Utilities.

ABC Environmental Health

- 5.11 Accept the Noise Assessment and Geo Environmental Assessment recommendations.

Natural England

- 5.12 Initially questioned the foul drainage, as any package treatment plant will require a permit. Also seek a Construction Environment Management Plan. The habitat creation would contribute to net gain and demonstrate the Council's biodiversity duty. Also recommend the mitigation and enhancement criteria of section 4 and 5 of the applicant's Ecological Impact Assessment. (The applicant has since amended the proposal to pursue an alternative connection to the public sewer). Natural England, in response to the submitted supporting HRA and Appropriate Assessment documents, advise they have no objections subject to the mitigation outlined in the ecological impact assessment. This mitigation will ensure there is no adverse impact on the site integrity of the River Derwent and Bassenthwaite Lake Special Area of Conservation (SAC) as concluded in the HRA. The enhancement proposal under section 5 of the report should also be secured including the provision of additional small blue butterfly habitat.

Other Representations

- 5.13 The application was advertised on site and in the press. Three letters of objection were received on the grounds of:
- a) The application is a retail development at an out-of-town location which would impact on Workington town centre.
 - b) Reference to the other additional proposed retail development at Derwent Howe Retail Park and the recent approval of a variation of condition application at Derwent Drive Retail Park.
 - c) The impact on the town centre from the proposed Derwent Howe retail park development alone is 7.9% at 2023 which the Council's peer assessment does not feel would be significant, but the objector considers there needs to be a cumulative assessment accounting for the three retail proposals.
 - d) The Council's former retail health check study referred to the strengths of the town centre but also identified its weaknesses including its limited convenience retail offer, the quality of its built environment and prominent vacant units. The cumulative effect of additional retail provision drawing people away from the town centre and its associated linked trips will have an impact on the town centre.
 - e) Lidl's trading philosophies as a deep discounter forms the basis of their appraisal's sales density figures as they differ from those of other supermarkets with a limited core range of their own exclusive labels. However, there is a trend towards it being a traditional supermarket. Consider the proposal as open retail rather than a specialised retailer and, therefore, a sensitivity test is required using other retail densities to indicate the extent of any impact on other centres which are protected under planning policy i.e. the reference to "discount is misleading" which could not be controlled and is therefore undistinguishable from any other non-discount retailer. (i.e. the consent could be potentially be operated by a separate retailer with higher sales density.)
 - f) This store will have a number of negative effects on Workington and the planning application is deficient in a number of respects. The Council's Retail Study confirms that Workington is well-provided for in respect of main food and other convenience shopping facilities, particularly given the presence of a number of major supermarket operators, along with several smaller town centre stores. Although the town was considered to perform reasonably well it was also stated that: "The centre does continue to exhibit signs of weakness, most notably the range and quality of the convenience offer." The study also identified significant under-trading amongst existing stores and confirmed that "...the turnover of Tesco and Morrison's in Workington has declined significantly since 2009 as a result of Asda opening in 2010").

- g) In the context of a weak town centre, it is perverse that Lidl's agent has not commissioned (nor the Council requested) a household survey of local shopping habits to identify the actual turnover of existing convenience stores. Further surprised, in the context of known under trading, that the Council has accepted an impact analysis based solely on benchmark turnovers. Yet the indicators of difficulties in the area are clear and Lidl's agent implicitly accepts the extent of under trading when confirming that available expenditure (post Lidl) will be £59m yet stating that total benchmark turnover of existing convenience provision is £108m. Thus, the combined under trading of convenience goods floorspace in Workington equates to some £50m. This should be of significant concern to the Council.
- h) The applicant's retail assessment work is not supported by appropriate evidence, primarily an up-to-date household survey of Workington, on which to base relevant assumptions and judgements regarding retail impacts.
- i) By the applicant's own admission, there is substantial under-trading across existing convenience provision. In other words, total available expenditure is fundamentally lower than benchmark turnover of existing stores). This should be a 'warning alarm' to the Council, with existing retailers particularly vulnerable to change.
- j) Such under-trading invalidates the decision by Lidl's agent to review the impact of the proposed Lidl store solely on the basis of benchmark turnover – existing stores are not trading at or near to benchmark and thus the analysis is entirely misleading.
- k) The applicant's agent has fundamentally underestimated the level of impact on the town centre, both in terms of existing turnovers (well below benchmark levels) and an underestimation of the trade to be drawn from them to the proposed Lidl.
- l) The proposed development has few qualitative benefits for Workington in terms of and the likelihood is that the jobs created by Lidl will merely be transferred from the stores that it impacts. Tesco is not alone in its concerns. Agents acting for Asda have submitted a robust objection. Workington Town Council has also objected to the application, including in respect of harm to the town centre. These objections must be given appropriate weight.
- m) The planning application form does not identify an applicant; it simply records the word 'other'. Statute requires the identity of an applicant to be clear. It is not sufficient for an agent to act as both agent and applicant. The failure to identify an applicant is prejudicial to relevant interests and the Council must, therefore, rectify the matter and re-consult on the application with the applicant clearly shown.

- n) The applicant has failed to consider sites in all of the town centres that fall within the catchment of the proposal. Omitting centres from the assessment is contrary to the “Town centre first “principle.
- o) The town centre site is likely to be suitable for the broad type of development proposed. Options to locate the proposed use are therefore yet to be “fully explored”. The southern section of the site has not been rejected as unavailable and it represents a sequentially preferable site.
- p) The assessment has not adequately assessed the Workington Railway Station site and insufficient evidence has been provided to discount its sequential superiority.
- q) The full cumulative impacts have not been fully assessed contrary to Policy DM8.
- r) The planning conditions recommended by the peer assessor would not effectively restricts the operation of the proposed retail unit (A condition restricting the units floorspace should be imposed if the council are minded to grant permission to ensure no adverse impacts on the town centre.)
- s) The proposal cannot be seen as ancillary and therefore it is contrary to its allocation under Policy SA49.
- t) The applicants Heritage Assessment has yet to be appropriately scrutinised and regard should be had to the effects of cumulative change in accordance with Historic England Good Practice Advice.
- u) The objector therefore contests for the above reasons the proposal should be refused.

5.14 A letter of support was received because it is considered the other discount supermarket in Workington, Aldi, is too small for the population of the town. It would also reduce Workington residents travelling to the Lidl in Maryport.

6.0 Environmental Impact Assessment

6.1 Under the Town and Country Planning (Environment Impact Assessment) Regulations 2017 the development falls into Schedule 2 and, following ‘Screening’, is not considered to require such an assessment.

7.0 Duties

7.1 The proposal has the potential to affect the setting of some listed buildings in the locality of the site. Section 66(1) of the Listed Buildings Act 1990 states that, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall

have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 7.2 The site is not located within a designated conservation area but its proposed development could affect character and appearance of the St. Michael's Conservation Area which is located to the south of the proposed site. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a designated Conservation Area.
- 7.3 The site is within the Impact Risk Zone of the River Derwent and Bassenthwaite Lake Special Area of Conservation (SAC) (A Natura 2000 designation). The development may have a significant effect on the designated site and is therefore subject to an assessment under the Habitat Regulations and, if required, an 'Appropriate Assessment'.

8.0 Development Plan Policies

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

- 8.1 The following policies are considered relevant:-

- 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
- S21 Developer Contributions
- 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
- DM9 Town centre frontages
- DM14 Standards of good design
- DM16 Sequential test for previously developed land
- DM17 Trees, hedgerows and woodland

These policies can be found at:

<https://www.allerdale.gov.uk/en/planning-building-control/planning-policy/local-plan-part-1/>

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

SA49 Lower Derwent Valley
SA52 Protecting and Creating Green infrastructure

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

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

The Plan can be found at :-

<https://www.allerdale.gov.uk/en/siteallocations/>

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 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.
- 9.3 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.
- 9.4 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.
- 9.5 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 2,500m² 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).
- 9.6 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.
- 9.7 Para 179 of the NPPF 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; 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

- 9.8 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) that was part of the evidence base for the Local Plan by 5 years.
- 9.9 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)

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

Workington Town Investment Plan (Oct 2020)

- 9.11 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.
- 9.12 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. None of this, or other known investment, is at risk from the current proposal.
- 9.13 The content of the Plan is therefore 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 Climate Change Action Plan 2021

- 9.14 The proposal will promote biodiversity and is consistent with this Action Plan.

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 complementary to the policies of the statutory development plan and carries weight.
- 10.3 The successful Workington Town Investment Plan's bid is a material consideration which is afforded weight.
- 10.4 The NPPF, updated in 2021, is clearly a material consideration afforded full weight. Part 1 of the Local Plan is more than 5 years old and predates the latest iteration of this national framework, but it is still considered to have a high degree of consistency with the NPPF (including its retail policy context).
- 10.5 The Allerdale Climate Change Action Plan 2021 is consistent with the NPPF and Local Plan. While not a statutory plan, it can carry some weight as a material consideration.

11.0 Assessment

Principle of development

- 11.1 Workington is identified as the Principal Centre in the settlement hierarchy under Policy S3 of the ALPP1 (2014) and should therefore be the focus for major new development (the application site is located within the defined settlement limits under Policy SA2 of the ALPP2). The Principal Centre and its vitality and viability are 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 Policy S30. However, under its criteria policy DM16, as the development exceeds 500sqm, a sequential test is also required.
- 11.2 Following the last consideration of this application by members, the ALPP2 has been adopted. The application site falls within the designated Lower Derwent Valley, policy SA49 being relevant. That policy supports the provision of new / replacement sports facilities and ancillary town centre uses in this area subject to specific criteria (reflecting the existing established uses in this area). It recognises the site's value as an important gateway approach into the town seeking design solutions that enhance this entrance to the town whilst improving the green infrastructure / ecological habitat of the River Derwent corridor.
- 11.3 This is further reinforced by the site's additional designation under Policy SA52 as part of protecting and enhancing the River Derwent's green infrastructure corridor. It does not preclude development in this area but seeks the enhancement of these assets and any wildlife linkages. The proposed landscape and ecological enhancements forming part of this scheme help to achieve these goals for this part of the River Derwent.

Retail planning considerations

- 11.4 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.
- 11.5 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.
- 11.6 Development of this site for the major 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 policy S5 of the Allerdale Local Plan. i.e. reflecting its primary position in the settlement hierarchy and its existing associated sustainable services and infrastructure credentials, without significant detriment to its character or environment.

The site is undeveloped land, but its immediate setting and the nearby stadiums were developed in the 20th century, with the construction of the river bridge in the 21st century following earlier major floods. Policy S30 of ALPP1- undeveloped land therefore applies.

- 11.7 The proposal is for a retail store with a mix of both convenience and comparison goods. The applicant company highlights that this will be a “Limited Assortment Discounter” (LAD) store selling a limited range of their own brand products. This type of store has been accepted in previous appeals as being distinctly different from main retailers.
- 11.8 The impact of the proposed retail store and the effect on the the vitality and viability of the Workington town centre is assessed below.

Sequential Test for town centre uses – context

- 11.9 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. The proposed scale of the applicants store is similar, or indeed smaller in size, to other convenience retail stores elsewhere within the town. It is therefore in proportion to the settlement as a whole. 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.
- 11.10 The application site does not lie within or adjacent to Workington town centre but is within the accepted urban area. It therefore falls to be assessed as an ‘out of centre’ site for the purposes of section 7 of the NPPF (2021) and policies S16 and DM8 of the ALPP1.
- 11.11 At the time of the previous consideration of this application, the submission had been supported by a sequential assessment of alternative sites within Workington. These included some draft allocations from the then emerging Local Plan Part 2. These allocations are retained in the now adopted Plan. (Policies SA47 Central Car Park site and SA48 Royal British Legion apply). Both these allocations are further supported by SA46 which seeks to safeguard the sites for main town centre uses and other uses that will enhance the vitality and viability of the town centre. Additional vacant sites have also been identified since the previous consideration of the application.

- 11.12 The expanded and updated alternative sites assessment includes reasons for dismissing them all. This reasoning has been tested by officers and peer reviewed by a suitably qualified, independent specialist.
- 11.13 The NPPF has a requirement for 'flexibility' in paragraph 88. The terms suitable and available generally mean suitable and available for the broad type of development which is proposed by approximate size, type and range of goods. The identity and personal or corporate attitudes of an individual retailer are generally excluded.
- 11.14 Lidl has an established store format linked to its business model. This is generally c.2100m² GEA with a net sales area of 1300m² GIA. This size of store allows for pallets to be used in the display area to keep costs down, space to move around the store for mobility impaired, the elderly and customers with small children and easy access to all bulky products.
- 11.15 The applicant originally required a minimum site of 0.93 ha including store (1900m²) warehousing, servicing, parking and landscaping. They also asserted requirements for a prominent site, with safe manoeuvrability, easily accessible by a choice of means of transport and surface level car parking.
- 11.16 In undertaking the sequential test the applicant has shown flexibility under para 8 of the NPPF by applying a minimum of 0.5ha to enable the accommodation of a 1,700sqm unit on a single floor. It also seeks level parking provision and a frontage location to attract passing trade.

Sequential assessment – Central Car Park

- 11.17 The Central Station Car Park is allocated in ALPP2 - Policy SA47. It comprises of a large car park divided by its service road with a narrow, landscaped cycleway/footway corridor at its southern end. The larger eastern section of the car park forms the bulk of the site with a narrow, smaller strip on the opposite, western side of the access road. This site is owned by Allerdale Borough Council.
- 11.18 The applicant accepts the site is a town centre location and acknowledges the policy designation. However, they contend that it is not suitable for their proposal due to the conflict with the plans identified in the Workington Town Investments Plan (Oct 2020). The latter identifies the site as an area for the development of an innovation centre and mixed-use development comprising of residential, café/restaurant and community facilities. The Investment Plan reflects the Council's aspirations for regeneration and redevelopment of key sites with complementary uses to the rest of the town centre. The Investment Plan foresees development that will markedly improve the attractiveness and legibility of the connections to the town centre whilst also providing a distinctive development that responds to the prevailing grain of the surrounding townscape, enhancing the character and appearance of the site in the process.

- 11.19 The applicant contends that the site is not available as it is not being actively marketed. They refer to correspondence received from the Council's Estates Manager which states that the site is not available for this purpose as the Council is planning to redevelop it.
- 11.20 The applicant has submitted more site-specific details. They advise that the scale and layout of their proposal does not respond to the prevailing grain of development and the aspirations to do so in the Investment Plan. They also say that, as it's not on a vehicular through route, it would not benefit from passing trade. The proposed store would also, they contend, have an adverse impact on the amenity of neighbouring housing.
- 11.21 In the same letter the applicant contends that the recently approved SPD further demonstrates the unsuitability of the site. In this context, they also refer to paragraphs 87 and 88 in the updated 2021 NPPF which contain the criteria for assessing sequential tests. They highlight that, from an operational level, when determining whether a site is suitable or viable, certain operational requirements for the business model of the broad type of development proposed should be considered - in this case a LAD food store.
- 11.22 They cite the SPD's commentary to key site 1 with its goals as "a key opportunity to diversify and complement the existing town centre offer and respond to changing shopping, employment and leisure patterns" and "the role of the town centre and support long term vitality and viability" supported by a range of design principles to be incorporated into a masterplan to avoid piecemeal development (no such plan has been prepared to date). The applicant contends that partial development of the site conflicts with this vision.
- 11.23 The applicant also notes that the SPD seeks the provision of a high quality public realm scheme to increase connectivity between the site, the neighbouring town centre and the Lower Derwent valley via the existing national cycle route 72 which traverses the site. The applicant contends the footprint of a store plus its associated parking would act as a barrier for pedestrian movement through the site and be poorly integrated into the town centre, contrary to the aspirations of the SPD. The applicant emphasises that the SPD not only seeks the retention of the existing cycleway which traverses the site but its enhancement. The retention (and enhancement) of the corridor constrains the footprint of the building. The car movements associated with the car parking facilities would add to the risk of the users of the cycleway.
- 11.24 The applicant notes that the existing town centre comprises of town centre uses centred on pedestrian streets or smaller roads, with the surrounding land to the Central Car Park site characterised mainly by terraced housing. It is considered the proposed store's design would neither reflect nor complement this existing grain.
- 11.25 The applicant's supporting letter also refers to the Workington Town Investment Plan 2020 and its plan to deliver an innovation centre as project

2, a catalyst for the regeneration of the Central Car Park site. Phase 1 proposes a 15,000 sq ft flexible office space due to open in 2023 with replication of this flexible office space as part of Phase 2. The document outlines “Allerdale Borough Council is proposing to develop a major mixed use scheme on this site, focusing on offering town centre residential accommodation to professional workers temporarily located in west Cumbria”.

- 11.26 The applicant notes the Council’s successful £23m bid for the Towns Fund with the Council’s website advising “the facility will be housed in a flexible, energy efficient building, on the Central car park site on Central Way in Workington. This will be part of a wider planning regeneration of this major town centre site, designed to augment and extend the existing town centre. Other uses for the site are likely to include housing café/restaurant provision and community facilities.” The Investment Plan includes an illustrative layout plan outlining the types of development envisaged. Retail is, the applicant notes, not included within the potential uses for the remainder of the site. The applicant also considers that, when the centre office building and mixed uses are complete, there will be insufficient space to accommodate the proposed development.
- 11.27 The initial peer review undertaken on behalf of the Council in 2019, concluded that the site was both suitable and available for development of a retail unit for convenience goods. It was considered comparable in size to the application site and would accommodate the applicant’s store with no modification, merely requiring a revised parking layout. Any impact on neighbouring properties could be addressed through its design and the applicant’s contention that the site lacks prominence and visibility were disputed and could be resolved through signage. The peer reviewer identified the proposal as a freestanding destination attracting single shopping trips linked to those for the town centre.
- 11.28 The peer reviewer and officers now consider that the Innovation Centre development of approximately one third of the northern section of the site east of the central service road is secured by government funding. This project, as detailed in the Investment Plan, has rendered this area both unavailable and unsuitable for the applicant’s proposal.
- 11.29 The peer assessor understands that the proposals for the southern section of the site, east of the service road/cycleway, aim to deliver a complementary mixed development (including residential) but are not detailed, as yet. Reference is made to the SPD which seeks a comprehensive approach contributing positively to the urban grain. The peer assessor and officers agree that the area identified for the Project 2 development in the Investment Plan is not available for a retail store as proposed. The peer reviewer does consider that the proposed floorspace could be accommodated on the remaining land but it is unclear whether the irregular shape of the land could also accommodate the additional parking and servicing requirements. Officers consider that, even when allowing for flexibility of format and scale, there is a reasonable requirement for the LAD store type proposed to have its

own servicing and parking provision. Given this could not be accommodated on the available part of the site, this site is not considered to be suitable for the scheme proposed.

- 11.30 Also, the peer assessor does consider that the foodstore development would not meet the aspirations of the SPD or the Investment Plan which encourage higher density development i.e. retail ground floor with residential above.

Sequential assessment – Royal British Legion

- 11.31 The Royal British Legion is also a town centre location (allocated site in ALPP2 - Policy SA48). At 0.2ha this site is currently unsuitable in its size to meet the operator's minimum requirements. It is also in active use and has not been marketed. The owner was contacted but no response has been received to date and therefore it is viewed as not being available. The peer assessor previously concurred with this opinion and officers note that there has been no change in circumstances to change this viewpoint.

Sequential assessment -The Cloffocks (Lower Derwent Valley)

- 11.32 This 1.6ha site comprises a public car park and public green space and is classed as an edge of centre site i.e. within 300m of the edge of the designated town centre boundary. The site is allocated in Part 2 of the Local Plan for sports and recreational use, policy SA49 being applicable. Part of the site is included in pending application (FUL/2019/0018) for the demolition of the existing stadium and redevelopment to provide a sports stadium including hospitality /conferences, community, café, office land uses and a sports pitch.
- 11.33 The remaining land could accommodate the proposal, but the allocation is for alternative recreational uses with complementary "ancillary" town centre uses, rather than retail. The proposal would be contrary to these allocations if pursued as a stand-alone retail development. It would also result in the loss of existing parking facilities serving the town centre which would need to be accommodated elsewhere. The loss of car parking may deter shoppers from using the town centre (including the elderly and disabled). The site also lacks road frontage and prominence. The site is therefore not considered suitable.
- 11.34 Notwithstanding the unsuitability, the Council, as landowner of this site, was contacted on its availability but no formal reply has been received to date. It is therefore considered unavailable.

Sequential assessment – Former Debenhams Store, Risman Place, Washington Square

- 11.35 The Debenham's store on Pow Street in the town centre has recently closed. The site is 0.25ha in area and incorporates three floors. It was developed as an anchor store as part of a wider town centre redevelopment in 2003. It is within the Local Plan's defined town centre.

11.36 The applicant contends that the premises would be unsuitable given the internal configuration of the store (multiple structural columns and centrally located escalators). The structural alterations required are compounded by the need for subdivision so the store could occupy part of the existing space.) The applicant also asserts that the site's location in the shopping centre lacks visibility and accessibility which is part of the discounter's model criteria. They also cite the lack of an adjacent level car park to enable the transfer of goods, which would deter shoppers.

11.37 The Council's independent peer reviewer notes that the landowner is amenable to the subdivision of the ground floor and alternative uses on the upper floor. However, they concur that the absence of a neighbouring level car park renders this site unsuitable. Officers fully acknowledge a car park at the eastern end of Pow Street is used by customers to Marks and Spencer's food hall. However, the Debenham's site necessitates a journey, albeit relatively short, along Pow Street whereas the M & S directly fronts onto the car park. Furthermore, the M & S is clearly aimed at those shopping for a smaller shop e.g. handbasket of premium goods. In contrast, a Lidl will result in a significant proportion of shoppers with a full trolley, where a convenient and accessible car park is essential. It is also noted that the existing car park is very limited in scale (approx. 24 spaces).

11.38 As such, the Debenham's store is not considered suitable.

Sequential assessment – Laura Ashley, Risman Place, Workington

11.39 This vacant store is 0.02ha in area and is located within the Washington Square shopping centre. It constitutes a town centre location and is within the designated primary shopping area. The size of the site is insufficient to accommodate the development, even just the retail floorspace without the associated servicing. It is also split over two floors. Officers and the peer review concurred with the applicant's assessment that this site is not suitable.

Sequential assessment – Fusion Night club

11.40 The site comprises of a 0.12 ha of land formerly occupied by the Fusion nightclub which burnt down, the site being subsequently cleared. It is located within the Local Plan's defined town centre. The applicant contends the site is insufficient in size to accommodate the proposed development, plus it is hindered by poor visibility from any thoroughfare and has limited access off the A596. They also note that it is covered by the policy SA52 allocation in ALPP2 and development of part of this would undermine the wider objectives of this policy.

11.41 Officers and the peer reviewer concur; the site is clearly too small to accommodate a store of the type proposed, the access arrangements are heavily constrained and the site is set at a much lower level than the rest of the town centre with poor accessibility for all. Some weight is also afforded to the SPD and the aspirations for complementary uses and green infrastructure, rather than a standalone retail scheme.

Sequential assessment –The Opera House, Pow Street

- 11.42 This is a 01.ha site has recently been cleared. It is heavily constrained by its access along the pedestrian only Tiffen Lane or Ladies Walk. The applicant considers its size could not support the proposal nor does it have adequate surface parking facilities, delivery arrangements or visibility to accommodate the proposal. Officers and the peer reviewer both confirm that the site, size and its locational constraints mean that it is not suitable for the type of store proposed.
- 11.41 The Investment Plan identifies the land as potentially being suitable for a 'pocket park'.

Sequential assessment – Workington Railway Station

- 11.42 This is a 1.4ha brownfield out of town site on land to the south of the railway station's car park. Although the size of the site could accommodate the development, the applicant highlights it's out of town status, that it is not sequentially preferable to the proposed site (being approximately 25m farther away from the town centre) and has poor connectivity. The railway site would also involve third party ownership delaying the development process.
- 11.43 It is understood the site is owned by the County Council who are exploring redevelopment options and it is unclear whether they are seeking the sale of the land and what timescales are involved. Clarity on this was sought from the County Council but no reply received.
- 11.44 The site is unallocated white land and falls within an area of designated 'Green Infrastructure' under policy SA52 of ALPP2. A food store would conflict with this designation.
- 11.45 The peer assessor agrees that this is an out of centre site and is not a sequentially preferable site. The site is therefore considered not suitable or available. Furthermore, officers highlight this site is detached from the town centre by a predominantly residential area of the town albeit there is a fragmented commercial element along Station Road's highway corridor, reducing the opportunities for linked trips.

Sequential assessment – Central 4 cars, Lillyhall, Distington (provided in supplemental retail note)

- 11.46 This development in Copeland was approved in October 2021 (ref 4/21/2341/0F1). It proposed a 553sqm building at the southern end of Lillyhall's industrial estate. The site is on the edge of the Lidl's 10 minute drive catchment area and is not within Workington. A foodstore there would not serve the same catchment area, requiring customers to travel further to this alternative site. Given its out of centre location it does not represent a sequentially preferable site which is connected to the town centre (indeed it is

less preferable than that of the proposed site). It is therefore not considered suitable for the proposed development.

- 11.47 The peer assessor agreed that this site would serve a materially different catchment area to the proposed site. The proposal represents an out-of-town site under the NPPF. Its floorspace is less than that of the proposed development, even when allowing for flexibility. The peer assessor therefore concurs with the findings of the applicant's sequential appraisal for this site
- 11.48 The peer assessor confirmed that he has not identified any other sequentially preferable sites for consideration as part of the sequential assessment. Officers agree and conclude that the retail sequential test is passed.

Retail Impact Assessment

- 11.49 The NPPF requires an impact assessment for schemes over 2,500m² or if the development is over a locally set threshold. Policy DM8 of the ALPP1 sets this at 500m² and a RIA is therefore required.
- 11.50 The initial peer assessment had concluded that there would be no significant impact on the vitality and viability of the town centre. However, it is recognised that there have been some changes since the review through the publication of the West Cumbria Retail, Town Centres and Leisure Study (WCRTLS) 2020. The WCRTLS encompassed a 2020 Household Survey and therefore represents a recent evidence base for the assessment. However, it is acknowledged that in addition it is considered there have been changes to the strength of the town centre, arising from considerations including the pandemic.
- 11.51 As a consequence the applicant has provided an updated revised impact note and health check (Feb 2022) in the light of changes to base data and assumptions, which supersedes the findings of the applicants earlier surveys. This complemented the updated in person town centre health check undertaken in November 2021 which was considered essential to establish a more accurate position on the condition of the town.
- 11.52 The main points arising from the assessment were to address the following issues:
- a) The health check suggests a slight decline in the number of comparison units within the town centre but suggest there is growth, including during the pandemic
 - b) Qualify the growth of the convenience sector during the pandemic, but explain the predicted reduction of the store's turnover since the last retail assessment.
 - c) Clarify any changes in the percentages from earlier assessments
 - d) Incorporate the Lillyhall (Central cars) site into the retail assessment
 - e) Account for the Derwent Howe proposal being solely for comparison retail bulky goods.

- 11.53 In assessing these issues under the town centre health check, substantial weight is attributed that the growth in the comparison sector relates to national trends, which are endorsed by the Experian Retail Planner Note 198 (Jan 2022) which also relates to personal expenditure over an annual year rather than the number of units in the town centre. This comparison goods growth is being driven by a higher than normal growth in internet shopping. The Experian evidence predicts decline in comparison sales density growth due to the temporary growth of shops and increased on-line shopping. (The national evidence of Experian may not necessarily correlate with Workington's town centre.)
- 11.54 Regarding convenience shopping, the evidence within Experian suggests nationally convenience spending in 2020 did grow by 8.7%. The reduction in the Lidl sales densities is not based on Experian overall growth, but alternatively sourced from Global data (Dec 2021) with figures deriving from retail performance figures and the quantum of floorspace each individual retailer has within its portfolio of stores. Changes to Lidl's sales densities is possible through accurate accounting of Lidl's turnover and net sales floor areas within its portfolio.
- 11.55 It emphasises that that the quantitative impact assessment now utilises convenience and comparison sales densities from Global data (Dec 2021), instead of the earlier assessments use of a blended sales Mintel sales density. And the applicant considers provide a more balanced benchmarked turnover for the proposal.
- 11.56 In reference to changing percentages reference is made to the difference between trade draw and the number of units within the town centre. The updated health check demonstrates small increase in the number of convenience units (8 to 11) and a sizable increase (79 to 96) in the number of comparison units in the town centre. However, there is a decrease in retail services, leisure services and financial and business services, plus the number of vacancies (30 to 25) are lower since the last assessment in October 2020. (It is highlighted that three of the new convenience units are small newsagent type retailers, with limited range of goods not catering for the weekly convenience shopping market and therefore are not likely to compete with the Lidl store. The increase in comparison units is predominantly small independent shops but does include larger retailers, ut are not seen as to likely complete with Lidl's comparison offer in the proposed store.
- 11.57. It is therefore concluded that Workington Town centre remains healthy despite lockdown restrictions at the time.
- 11.58 The retail note also updated the cumulative impact assessment. The quantitative assessment was included as part of the update, including the following evidence information: a catchment area population data from Experian (Jan 2022) adopting 10minute drivetime catchment area, convenience and comparison goods expenditure growth, special forms of trading growth based on Experian retail planner briefing note 19 (Jan 22), Lidl

store benchmarked sales turnover based on Global data (Dec 2021) , based impact year rolled forward from 2021 to 2022 and based design year rolled forward from 2026 to 2027, updated convenience and comparison expenditure per person, theoretical turnover of the Derwent Howe proposal for comparison goods and the inclusion of the former Central Cars site.(and its trade diversions).

- 11.59 Details were provided on quantitative impact trade diversions with an agreed assessment scope. It encompasses population forecasts, personal convenience and comparison goods forecasts, total available expenditure forecasts within the catchment area, predicted turnovers for the Lidl store (based on average sales densities), theoretical expenditure capacity for convenience and comparison goods in the catchment area and predicted trade diversions from existing retailers to the proposed development (including an allowance for other developments and expenditure inflow from outside the catchment area.
- 11.60 The assessment highlights the impact on the town centre should be assessed as a whole rather than on any impact on individual retailers. The impact on the town centre is seen as 2.12% (2027) which is considered within acceptable limits. For convenience goods turnover there is a cumulative impact of 5.886%, with an impact of the town centre of 2.53%. In total it is cumulatively predicted that (£3.49m-2027) will be diverted from the town centre of which £0.13m from M&S foodstore and £0.14 from Iceland. These locations are easily accessible from the proposal, thus there will be a choice of shopping (no single in centre store will be impacted by more than 9%. It is envisaged that a significant proportion of the proposed Lidl's store trade will be drawn from the existing Morrison's, Tesco and Aldi within Workington as these stores offer a wider range of goods, are in proximity to the proposed site and are the dominant foodstores within the catchment area.
- 11.61 Workington town centre has a limited foodstore offer in the form of M&S foodhall, Iceland and other smaller independent retailers, none of which are discount retailers. Lidl's primary competitors are other discount retailers which offer a similar range of goods to Lidl.
- 11.62 Reference is also made in the assessment to the local centre of Seaton which only has small stores (100-330sqm in size) acting as top up shopping destinations and therefore will not compete with the proposed store and therefore any impact will be minimal.
- 11.63 It is predicted that 10% inflow of the proposal's turnover will be generated from trade which is currently leaking to other locations within or outside the catchment area i.e. shoppers travelling more than 10 minutes to undertake their shopping.
- 11.64. In considering comparison goods trade, a majority of the proposed stores comparison expenditure is expected to be diverted from main foodstores (which offer similar or extensive comparison goods) and other bulky good destinations. However, this is an ancillary role to the store, with shoppers

having the primary objective of convenience shopping. Thus, the comparison goods floorspace proposed will not have an adverse level of impact on the vitality and viability of Workington town centre.

- 11.65 The report concludes the proposal will not have any adverse impact on existing, committed and planned public and private investment in any centre centres in the catchment of the proposal. The updated note provides a detailed appraisal based on recent evidence with no identified significant adverse impact on the vitality and viability of the town centre. Or any centre in the study area. It will deliver benefits to local residents improving the retail offer, with additional employment benefits and reduced journey times. It also demonstrates the applicant's commercial intent to improve consumer choice for the town with additional economic investment benefits, representing the only sustainable location in the town in compliance with the NPPF criteria
- 11.51 For the purposes of both the applicant's original and updated retail assessment, a 10 minute drive time threshold was applied to identify the core catchment area. The catchment had a population of 35,210 in 2020 rising to an estimated 35,569 in 2027. (The original peer review found that this was a reasonable approach to adopt.)
- 11.52 The assessment included other applications which are pending i.e. Derwent Drive (ref 2/2018/0595) and the approved variations to building B and C at Derwent Howe in the same locality (ref VAR/2019/0008).
- 11.53 Furthermore to enable greater analysis of other pending retail applications a more detailed additional retail note document was provided on the cumulative retail impacts concerning the following sites:
- (i) Princess Hall, Princess Street, Workington (FUL/2021/0067). Its gross retail area 345sqm does not trigger the 500sqm threshold necessity for any impact assessment but does require consideration under a sequential assessment. In the absence of any such impact assessment the note makes assumptions on the potential trading patterns of the store. i.e. indicative.
 - (ii) Unit 5b, Chapel Road, Derwent Howe industrial estate, Workington (FUL/2021/0099). This proposal involves a retail extension to an existing warehouse with a sales area of 800sqm. Thus, this proposal is supported by both a retail sequential and impact assessment. the proposals turnover and trade account diversion patterns have been accounted for the updated assessment (where feasible updated by the latest Experian retail planning briefing Note 10 (Oct 2020)
- 11.54 An updated health check of Workington's town centre as of Feb 2022 (based on has been provided. This is based on key Health Check Indicators set out in the Town Centres and Retail NPPG. The recent RTCS 2020, indicates a 10.1% vacancy rate which is below UK national average vacancy levels (11.72%) with a good mix of retail uses for a local retail centre, resulting in the vitality and viability of the town centre being good. It also benefits from very good levels of accessibility and good environmental quality. The crime

rate is mediocre. Overall, the check suggested the town centre is in a very good state of health, with good levels of vitality and viability.

- 11.55 In light of the current pandemic the report acknowledges that at this stage it is difficult to predict its impact on vacancies and the health of the town centre. However, the town appears largely unaffected by the Covid restrictions. As a general wider trend, the convenience sector has seen larger than expected growth as a result of the pandemic and the latest Experian Retail Planner Briefing Note (October 2022) shows changes in shopping habits with online spending on comparison goods diverting footfall from larger town and city centres.
- 11.56 In assessing the town centres convenience sector the applicant's health check suggests a slight decline in the percentage of convenience units in the town centre since 2015. However, the supporting retail report suggests convenience retailing has remained very resilient to the pandemic. It contends convenience shopping has seen growth rates well above growth trends in both bricks and mortar and online for more vulnerable groups in both 2020/2021. Therefore, existing convenience retailers in the town centre are expected to experience strong levels of trade reflecting the essential nature of convenience shopping. The town centre primarily operates as a comparison shopping destination with the vast majority of retailers being comparison led, providing a different offer to Lidl. The applicant's non-food offer focuses on household products and non-food "specials".
- 11.57 The recent updated retail note revised the earlier modified estimated retail assessment figures.
- 11.58 The submitted retail note advises a total available convenience expenditure within the catchment area of £84.00m in 2021, falling to £83.07m by 2027. The proposed convenience turnover of the store is £8.92m (2021) declining to £8.78m by (2027) which represents approx. 10.6%% of the total convenience expenditure.
- 11.59 The alternative total available comparison turnover of the catchment area is £88.40m increasing to £103.74m (2021-2027). Of this the proposed comparison turnover of the store would be £1.21m (2021) rising to £1.41m by (2027) i.e. approx. 1.3%% of the available catchment area. The retail note's report is of the view that the stores comparison turnover will have minimal impact on defined retail centres
- 11.60 It is envisaged that a proportion of the store's turnover will be drawn from other out of town stores, namely Aldi, Tesco and Morrison's as these facilities are similar in nature and are of proximity to the site. However, the applicant contends and the associated quantitative impact will not be of a level which would be of a significant adverse impact, given the small scale of the store and its trading characteristics. The applicants report also concludes that an element of inflow expenditure could be anticipated. There are sustainable benefits to shopping locally, but a proportion of shopping turnover will be

captured from a wider area given the proposed stores siting on a major route into the town.

- 11.61 The retail note also updated the cumulative impact assessment. The quantitative assessment was included as part of the update, including the following evidence information: a catchment area population data from Experian (Jan 2022) adopting 10 minute drive time catchment area, convenience and comparison goods expenditure growth, special forms of trading growth based on Experian retail planner briefing note 19 (Jan 22), Lidl store benchmarked sales turnover based on Global data (Dec 2021) , based impact year rolled forward from 2021 to 2022 and based design year rolled forward from 2026 to 2027, updated convenience and comparison expenditure per person, theoretical turnover of the Derwent Howe proposal for comparison goods and the inclusion of the former Central Cars site (and its trade diversions).
- 11.62 In assessing the impact of the development as a whole, it is envisaged the forecasted cumulative convenience and comparison retail impact of 1.1% (2026) on Workington town centre which is considered to be within acceptable limits. This includes a 7.78% impact on convenience goods turnover and comparison impact of 2.10%
- 11.63 It is estimated a predicted £1.76m will be diverted from Workington town centre of which £0.19 will be from M&S foodstore and £0.21 m from Iceland (7.22%)
- 11.64 Further diversions will be from other out of town stores Morrison's (£1.35m), Tesco (£1.62m) and Aldi (£0.72m)
Workington Town centre has limited foodstore offer in its M&S foodhall and Iceland stores, which are not discount food retailers and provide a different retail offer. Lidl's primary competitors are other discount retailers.
- 11.65 Reference is made to Seaton, but its convenience shops are limited to small stores 100-300 sqm in size acting as top up shopping destinations, thus not competing with the proposal and resulting in a minimal impact.
- 11.66 It is predicted 10% (inflow) of the proposal's turnover will be generated from trade which is currently leaking to other locations within and outside the catchment area. (i.e. more than a 10 minute drive for shopping trips). The applicant contends it is reasonable to assume some of these customers living outside the catchment may occasionally shop at the proposed store.
- 11.67 For comparison goods trade, most of the proposed stores comparison expenditure is expected to be drawn from the main foodstores (which have similar comparison goods) and other bulky goods destinations which have an ancillary role to the primary role of the store as a convenience shopping destination. As such the report considers the comparison goods floorspace proposed will not have a significant adverse impact on the vitality or viability of the town centre.

- 11.68 It is also envisaged 10% of the proposal's turnover will be generated from trade which is leaking to other locations within and outside the catchment area.
- 11.69 Both the peer review and officers have reviewed the assessment and other updated evidence including the latest Retail Study. They note that the cumulative assessment of trade impacts assesses to 2026 in compliance with guidance of the Planning Practice Guidance. The latest peer review and officers observe that the updated quantitative assessment is based on: Benchmark figures taken from Mintel Retail Rankings, the supporting retail evidence for the Chapel Road unit proposal, the theoretical turnover generated and trade draw from the Princess Street proposal.
- 11.70 The estimated turnover figures for the town centre are within the WCRTLS and updated to take account of Experian growth rates. The total turnover of the town centre is expected to increase from £148.85m in 2019 to £160.27m in 2026 (whilst accepting a decline in 2020-21 due to the pandemic). Of this latter figure for 2026 £7.04m relates to the sale of convenience goods and £153.23m to the sale of comparison goods.
- 11.71 The applicant's impact assessment also takes account of commitments with the proposed developments at Derwent Drive (2/2018/0595) having a "worst case scenario" turnover of £15.89m at 2026 and units B & C Derwent Retail Park (VAR/2019/0008) having turnover of £10.81 million in 2026.
- 11.72 The peer reviewer and officers note the cumulative impacts on the convenience retail turnover in 2026 are expected to be 0.69% on Workington town centre, with cumulative impacts on out-of-centre destinations expected to be 19.28% with negligible or low impacts on the convenience retail offer at Seaton. The submitted evidence indicates that cumulative impacts on the retail convenience turnover will be 6.8% in 2026 with the highest individual trade impacts being Iceland (7.22%), Home Bargains (5.15% - excluding comparison retail turnover) and M&S (4.76%).
- 11.73 The peer reviewer and officers previously acknowledged that, as a result of the pandemic, it is difficult to estimate its long-term impacts on the town centre. The lockdown has accelerated growth of online retailing and placed additional strain on town centre operators. The loss of the large Debenham's anchor store in the town centre has the potential to reduce trade and footfall and considerably increases the proportion of vacant floorspace. Overall, in terms of short-term retail impact, the peer reviewer considers that Workington town centre will be more vulnerable than when previously assessed. However, any impacts on town centre trade will still be low. The impacts on the convenience retail sector will be higher but this sector has performed strongly in the pandemic and any such impacts are unlikely to undermine the viability of any individual trader.
- 11.74 The peer assessor acknowledged the changes in the updated assessment with the inclusion of the two additional retails sites at Princess Street and Chapel Road. In addition, it also recognises the earlier assessments figures

have been reviewed to account for updated assumptions to allow more up to date figures deriving from Mintel data which reduces the sales density figure which resulted from accurate accounting of Lidl's current turnover and net sales floor areas in the timescale just before the pandemic (Feb 2020).

- 11.75 The peer assessment considers the assumptions on the Princess Street site are reasonable with an estimated convenience turnover of £1.68m in 2026 and convenience turnover of £0.30m the same year. Of this £0.13m (7.7%) would be diverted from the town centre and the remainder £1.56m (92.3%) diverted from facilities outside the town centre. Its comparison retail turnover £0.28m will be from the town centre (93.3%) and £0.2m (6.7%) diverted from facilities outside the town centre. The peer assessor considers these patterns of trade diversions to be reasonable as it is anticipated it will for two retail units one of which will be a neighbourhood retail store.
- 11.76 The peer assessor refers to the proposal at Chapel Road, Derwent Howe which is supported by retail evidence including turnover figures and trade diversion assumptions which estimates a turnover of £1.0m of which 40% will be diverted from the town centre and 60% of facilities. This is considered robust given that it relates to the relocation of an existing store and relates to bulky goods.
- 11.77 The peer assessor refers to the updated cumulative trade impacts on trade impacts which have increased to 7.78% when compared with the former assessments 6.8%. The cumulative impacts of the combined convenience and comparison retail turnover of the town have also increased to 1.1% from the former surveys 0.69%. This increase in the impact on the convenience retail turnover of the town is primarily due to the impact of the Princess Street proposal, whereas the increased impact on the combined retail town centre turnover is due to that proposed at Derwent Howe.
- 11.78 The peer assessor also comments on the significantly lower turnover figure for the proposed store which has an effect on ameliorating cumulative trade impacts on the town centre. These revisions reduce the anticipated convenience turnover from £10.09m to £7.58m and the comparison retailer turnover reduced to £2.53m to £1.90m. It is considered these figures should be treated with caution as albeit the Mintel data source is reputable, it is possible Lidl's sales densities have been diluted by larger more spacious stores in recent years. (it is noted that the convenience retail market has performed more strongly since March 2020 and Lidl operate in one of the fastest growing markets.
- 11.79 However even if the former assessment figures were adopted, the peer assessor estates the cumulative trade impacts on the convenience retail turnover of the town centre will be 8.7% and trade impacts on the combined turnover of the town would be at 1.12%. The peer assessor references his earlier appraisal in May 2021, in that impacts on the overall retail turnover of the town centre will be low and impacts on the town centres convenience sector will be spread among a number of individual facilities which provide specialised convenience offers which differ from that of Lidl. Thus, it is

considered the proposal will be unlikely to give rise to significant adverse impacts on Workington town centre, or other defined centres.

- 11.80 The peer assessor concludes the updated retail note satisfies the sequential test set out within the NPPF and Policies s16 and DM8 of the ALPP1. While the revised detail shows higher cumulative impacts on the Workington town centre, the peer assessor concludes the proposal would remain within acceptable parameters and is unlikely to give rise to significant adverse impacts on the town centre or other centres, thus complying with the impact criteria of the updated NNPF.
- 11.81 Paragraph 90 of the NPPF also requires an assessment of the impact of the proposal on vitality and viability in terms of local consumer choice and trade in the town centre and wider retail catchment area (as applicable to the scale and nature of the scheme). At present there is one discount convenience operator in Workington, the Aldi on Derwent Drive. The proposed Lidl would provide increased choice and competition within the town and the wider catchment area.
- 11.82 It is also recognised, through the projects identified within the Investment Plan, and reflected, in part, by allocations in the Local Plan, that there is a strategy for regeneration focussing on complementary uses to the retail that will help strengthen and diversify the town centre offer and footfall. The emphasis on these complementary uses rather than retail will mean that the proposed store will not impact on this funding strategy. Indeed, siting the store within one of these other key sites could prejudice delivery of the strategy.

Retailer identity - known occupier

- 11.83 An objector has previously noted that Lidl are not named on the application form. Members are advised that Lidl is clearly referred to within both the planning and retail statement and the Design and Access Statement. As such this is not a speculative proposal but one with an identified operator. Officers also highlight the division of the retail floorspace between comparison and comparison goods will be secured by condition.

Retail/town centre impact summary

- 11.84 The applicant's updated sequential test and retail impact assessment have been robustly reviewed by the peer assessor. A range of evidence was used including the sequential assessment, identification of the catchment area, vitality and viability of centres within the catchment, proposed foodstore turnover and quantitative impact assessment (trade diversion).
- 11.85 There are no available, suitable or sequentially preferable alternative sites. The impacts of the development have been assessed on the basis of the application for a single foodstore. It is therefore considered necessary impose a condition prohibiting sub-division unless expressly granted by a fresh planning permission.

- 11.86 Whilst there will higher impacts on the retail turnover on the town centre than originally assessed, the peer reviewer considers this scheme is unlikely to give rise to significant adverse impacts on the vitality and viability of the town centre. However, this assessment is based on the majority of the floorspace being for convenience goods. Given the town centre's bias towards comparison retailing, a split with more comparison goods within the proposed store, is likely to have unacceptable impacts. Thus, a condition is necessary to restrict the comparison goods % to that proposed in the submission.
- 11.87 The proposal is considered to accord with policies S16 and DM8 of ALPP1.

Design/ Landscaping

- 11.88 Policy S4, S5 and DM14 of ALPP1 seek the delivery of a satisfactory standard of design. The design adopts the company's standard generic contemporary design with a modern partially glazed and panelled building. The store is sited within the centre on the plot with parking provision on its southern and eastern edges. The application site is relatively open and level in its appearance and therefore the building will be prominent in the approach coming across the bridge from Northside.
- 11.89 The applicant has retained all of the protected Swedish Whitebeam trees (subject of the TPO) and intends to supplement the proposed perimeter paladin fence with additional landscaping in order to soften the visual impact of the development. Indeed, some landscaping e.g. kidney vetch, seeks to enhance the biodiversity value of the site. Officers therefore consider the proposed development complies with both the design criteria of policy S4, S5 and DM14 and the landscaping criteria of Policy S33, SA49 and SA52 of the Allerdale Local Plan. The trees will need to be protected by fencing during construction and this can be secured by condition.
- 11.90 The applicant's evidence also highlights sustainable measures and features to be incorporated into the building with passive (e.g. maximising daylight) and active (e.g. heat recovery/low energy lighting, reducing wasted energy) design strategies.

Ecology

- 11.91 Policy S35 of the ALLP1 seeks to protect the biodiversity of sites and safeguard the habitat of any protected wildlife species. The application documents include an ecology survey. It refers to the nearest upstream national designations of the River Derwent and Bassenthwaite Lake SAC and SSSI (850m) as well as Siddick Pond SSSI (510m distant) in addition to a range of local designated wildlife sites and Biodiversity Action Plan (BAP) habitats.
- 11.92 The site is identified as a potential interest for UK Biodiversity Action Plan 2007 (BAP) Small Blue butterfly species which occupy dry sheltered areas of grassland where kidney vetch grows. The survey concludes there will be no

significant residual effect on these designations, albeit kidney vetch is included within the landscaping specification. The survey also assessed the impact on other species including bats, otters, badgers, protected fish (salmon, river brook and sea lamprey) as well as specially protected birds (of site local importance including kingfisher), breeding birds and reptiles.

11.93 In summary, the findings of the updated ecology report were:

- No records or evidence of protected mammals near the site.
- Bats – low/negligible suitability for roosting. The River Derwent corridor provides high suitability for foraging and commuting bats.
- Otter – No evidence of Otters in recent surveys but the River Derwent and its banks provide favourable Otter habitat.
- Birds – No specially protected birds within the site. However, the River Derwent corridor is suitable habitat for Kingfishers.
- Common reptiles - No incidental observations of reptiles in the 2019/ 2021 surveys, but a suitable foraging and refuge habitat.
- The River Derwent supports Atlantic Salmon, River lamprey, Sea lamprey and Brook lamprey
- Protected Invertebrates – site supports only widespread and common habitats with no detection (2015 survey) of protected invertebrate species
- Protected flora - None in the phase 1 habitat survey (2019 and 2021) or recorded within 2km - only common/widespread habitats identified.
- No invasive species identified at the site,
- Priority species – The sites vegetation provides a limited extent for foraging/ refuge for this type of species including hedgehog, common toad and invertebrates.

11.94 Thus 'protected species' are of negligible ecological importance on the site, while other species are only of local importance.

11.95 Subject to the recommended mitigation measures outlined in the report, no significant residual impact is expected, resulting in no net loss in biodiversity whilst also providing opportunities for overall biodiversity gain.

Habitat Regulations

11.96 The Habitat regulations form a separate system of control from 'planning'. Given the proximity of the application site to designated ecological sites, the ecology report was also supported by a Habitats Regulation Screening and Appropriate Assessment, to examine the impact of the development on the qualifying species of these specific designations. Although the development does not directly affect any statutory ecological designations, by its location adjacent to the tidal River Derwent, the impact of any works has the potential to migrate within the upstream tidal section of the river which is designated a SSSI and SAC (and any of their associated habitats). There is also a potential for impact on the Solway Firth proposed Special Protection Area.

- 11.97 The scheme is not likely to have any significant effects on the proposed SPA designation. Its location, downstream within the tidal firth and scale and the nature of the habitats recorded inform this conclusion. (In the absence of any direct impact, by virtue of the location, nature and scale of the development and its separation distance from the River Derwent no pathways for potential in combination effects on the SPA's qualifying wintering bird species and important wetland bird assemblage were identified.)
- 11.98 There is assessed to be no direct impact on the River Derwent SAC from the operational phase of the store, parking and access elements, given the separation distance to the designation (850m). However, the River Derwent is tidal and could act as a pathway for potential likely significant effects from run-off, during the construction phase (especially as some of its qualifying species are migratory and may traverse along the river corridor). The identified potential pathways for likely significant effect on the SAC's qualifying species included: construction and operational run off including disturbance to the bank in constructing the outfall/foul sewer connection, artificial lighting, vibration from vibro-compaction works and direct accidental injury to species during construction.
- 11.99 The HRA screening concluded that likely significant impacts were identified for the marine /fish and Otter species from potential construction run off and injuries, if Otters entered the construction site. Mitigation is possible but, as per the former People over Wind judgement legal case verified, this cannot be accounted for at the screening stage.
- 11.100 Thus an Appropriate Assessment under the Habitat Regulations was also necessary to demonstrate whether the integrity of the designated sites/qualifying features is adversely affected through the implementation of the proposed mitigation measures. The proposed mitigation includes site works undertaken in accordance with the Environment Agency's Pollution Prevention Guidance to address any run-off, a fenced off 10m buffer from the boundary of the site to keep Otters out, with a precautionary approach of covering holes or trenches overnight.
- 11.101 Other identified ecological impacts have been assessed by officers in consultation with Natural England. The applicant's assessment that there would be no significant residual effect from the development is considered robust subject to measures including further checks for evidence of any species, control on lighting details (construction and operation), no piling works, protective perimeter fencing and a buffer strip on the northern perimeter of the site. A Construction Environmental Management Plan (CEMP) is necessary and can be secured by condition. Enhancement measures were recommended including the creation of small blue butterfly habitat, three bird boxes, two bat boxes and the use of native planting.
- 11.102 Natural England have raised no objections to the submitted details (as amended) or the submitted Appropriate Assessment.

Subject to conditions, there is accordance with policy S35 of ALPP1.

Flood Risk Drainage

- 11.103 Policy S29 of the ALPP1 seeks to ensure satisfactory surface water drainage details and minimise the risk of flooding.
- 11.104 With the exception of a very small area of landscaping, 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.
- 11.105 The submitted Flood Risk Assessment states the risk from flooding from rivers, sea, land, groundwater sewers and any other artificial sources is low. To mitigate flood risk it was recommended that floor levels be identified. This is a robust conclusion given the Environment Agency's mapping not only indicating that the site is in flood zone 1 but it is also not recorded as being at risk of flooding from other sources such as surface water.
- 11.106 For surface water drainage, ground conditions are not suitable for infiltration. Therefore, the surface water drainage is proposed to be by an outfall into the River Derwent, with the foul by the public sewer. The implications of the outfall were considered as part of the ecological assessment and this discharge method is considered to be the most appropriate and accords with the drainage hierarchy detailed in policy S29 and the NPPF.
- 11.107 The route of the amended outfall falls outside the ownership of the applicant but is within the ownership of the application site's existing landowner and therefore it is considered there is a reasonable prospect of these works being delivered. It is recommended that the works for both foul and surface water be secured by a s106 legal agreement.

Contamination

- 11.108 Policy S30 outlines the criteria for the reuse of land which includes addressing any contamination.
- 11.109 The application was supported by a ground investigation report including a range of mitigation measures. Neither ABC's Environmental Health Officer nor the Environment Agency raise concerns on this issue, but the latter refers to the potential for any pollution transfer due to the tidal activity of the River Derwent to ecological designated sites upstream. As already detailed in the Ecology section of this report, measures including a Construction Management Plan can address this matter appropriately. The proposal therefore complies with policy S30 of ALPP1.

Residential Amenity

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

- 11.111 The application included a noise assessment with the nearest sensitive noise receptors being residential properties located in the Northside estate to the northwest approximately 170m distance from the site. The survey accounted for existing day and night-time noise levels and accounted for traffic noise as well as that from fixed plant. It concluded any impact from daytime levels (with dominating background noise levels from traffic) will be low. It is also envisaged the impact from night-time levels will be low.
- 11.112 The applicant has confirmed there will be no piling operations, with the use of vibro-compaction works for foundations.
- 11.113 The existing neighbouring Tesco retail store, approved in 1990, includes its delivery yard beyond the site's perimeter. It is not subject to any planning conditions restricting hours of opening/ deliveries, with no record of disturbance complaints from its operational activities.
- 11.114 It is considered that the proposal (subject to planning conditions to control noise disturbance e.g. fixed plant) complies with Policy S32 of ALPP1 with regard to noise. Indeed, it is the construction phase rather than the operational phase that could, without a Construction Management Plan, result in amenity issues to residents. The Council's Environmental Health team is that there should be an overall limit to noise during the operational phase. However, in officer's opinion as the noise evidence suggest compliance with the required thresholds, subject to a bespoke condition re the store's operational plant details, the imposition of a generic condition is considered unreasonable and non-essential.
- 11.115 The distances to the Northside dwellings will also mean no significant loss of amenity from glare from the lighting, overlooking or overshadowing. Given the potential impact on wildlife, the lighting scheme was amended to confine its illumination primarily on the site.

Access and Parking

- 11.116 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.
- 11.117 The site lies within the Principal Service Centre of Workington and directly abuts existing lit, segregated footways and cycleways and is within 400m of large residential areas. There are also bus stops served by regular services to Workington town centre, Flimby and Maryport. The railway station is also within an acceptable walking distance, 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.
- 11.118 The proposal incorporates a new vehicle access road onto the southern approach to the A597 bridge over the River Derwent. The percentage of additional traffic to the overall flows will be very low. This has been robustly

assessed by the applicant and verified by the County Highways Authority. The new junction includes a central island and a box junction. A pedestrian crossing is proposed on the southern side of the junction with a section of the existing wall removed to secure the visibility splays.

- 11.119 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.
- 11.120 The Highways Authority's request for a contribution for mitigating highway works to Duke Street to avoid its potential use as a rat-run. These requested measures do not meet the tests for 'reasonableness' for inclusion under any s106 Planning Obligation.

Gas utility infrastructure

- 11.121 An existing gas pipeline traverses in a north-south orientation down the eastern side of the site. Northern Gas has outlined its specifications for any works within proximity of the pipeline including separation easements, methods of working etc. Additional amended information has been received to ensure compliance with these technical requirements with mitigation measures, prompting the withdrawal of Northern Gas's initial objection.

Heritage

- 11.122 Policy S27 of ALPP1 seeks to safeguard, conserve and enhance heritage assets. Although this reflects duties contained within sections 66 and 72 of the Listed Buildings Act, thus members are required to assess whether there is considered to be a significant harmful impact on the setting of these designated heritage assets from the proposed development given the separation distance to the heritage assets in question and intervening existing development. Nevertheless, for robustness, the applicant was required to submit a heritage statement with the application. Historic England's GPA Note 3 – assessing setting of heritage assets, was used to assess any harm.
- 11.123 The Heritage Statement was updated to account for the recent Travelodge building development, FUL/2019/0499, sited to the south of the Tesco's junction roundabout which lies in the intervening section of land between the application site and some of the heritage assets. St. Michael's Conservation Area is located approximately 450 metres to the south. This designation includes the landmark Grade II* listed buildings of St. Michael's Church and its neighbouring Rectory (approx. 400 to the south) and the Grade II listed Joseph Pirt industrial works (approx. 440m to the south-west). The nearest scheduled monuments are Burrow Walls (WHS) (0.85km), Jane Pit (1.58km distant) and Workington Hall (1.08km).
- 11.124 Paragraph 200 of the NPPF states "Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from

development within its setting), should require clear and convincing justification”.

- 11.125 The applicant’s heritage assessment concludes that setting contributes a limited amount to the overall significance of the assets due to the extent of change which has already occurred within the assets immediate and wider setting, accounting also for the desperation distance and topographical distance. It therefore considers that the proposed development will sustain the significance of the heritage assets in compliance with local and national planning policy. Officers advise that no significance of any of these assets is derived from a setting that includes the site. Indeed, none of these assets are directly impacted by the proposed development with only limited restricted long view combined sightlines. Officers therefore consider the setting of the listed building will be preserved, as will the character and appearance of the conservation area, and that there is no conflict with Council policy.

Economic Benefits of the Proposal

- 11.126 The NPPF, at Paragraph 81, states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth and that significant weight should be placed on the need to support economic growth through the planning system. The proposal would create further employment and its investment would support the economic growth of the area, it is recognised that the proposal would have economic benefits, helping to deliver the economic role of the planning system of contributing to building a strong, responsive and competitive economy.
- 11.127 In accordance with Paragraph 81 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 by further investment within Workington and the creation of further employment opportunities and bring a long-term vacant site back into beneficial use.

Local Financial Considerations

- 11.128 Regarding S70 (2) of the Town and Country Planning Act the land is owned by A.I.P. (Derwent Riverside) Limited (company number 09174440).

The Allerdale Investment Partnership is a joint venture between Allerdale Borough Council and Allerdale Partnership PCC Limited originally formed in 2014. The intention for the limited liability partnership and its associated bodies is to undertake activities within Allerdale and the County of Cumbria for the benefit of the local economy and the inhabitants of Cumbria including the acquisition, marketing, investment in and disposal of sites and assets owned by the Council and/or third parties, including:

- Improving the use of the Council’s assets as reflected in the Council’s Asset
- Management Plan and Council Strategy;
- Maximising financial return through enhanced asset value;
- Focusing to raise funds for key Council projects;

- Providing a catalyst for economic regeneration such as housing, leisure,
- employment and local spend by addressing key strategic priorities, attracting
- major employers to the area and improving local infrastructure;
- Achieve targeted area development; and/or
- Procuring a financial return to the Members of the LLP commensurate to their
- investment and their level of risk and, so far as consistent with the above
- overall objectives, maximise profits made by the LLP.

It is unclear at this stage the extent to which the proposed development would provide any financial consideration to the Council, if at all.

If developed, the scheme would generate business rates.

12.0 Balance and Conclusions

12.1 The proposal has been considered against the Development Plan policies as a whole. There are no material considerations which result in a decision not being made in accordance with the Development Plan. The Investment Plan and Towns Fund funding are a material consideration specific to the retail sequential assessment of alternative sites.

12.2 Rigorous assessment of the impact of the proposal on the viability and vitality of the town centre has been undertaken with the application of the sequential test and retail impact assessments. The impact is considered acceptable.

12.3 Overall, the proposal balances Economic, Environmental and Community objectives, and is thus sustainable development. And so, subject to conditions and planning obligations, this is a sustainable development, compliant with the development plan policies and which secures the redevelopment of an undeveloped site in poor condition, with associated biodiversity enhancement.

13.0 RECOMMENDATION

13.1 **That the decision to grant permission subject to conditions be delegated to the Head of Service or the Planning Manager and subject to a section 106 agreement securing the delivery of biodiversity enhancement, the surface water drainage outfall and foul drainage connection.**

CONDITIONS

Time Limit:

1. **The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

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

In Accordance:

2. The development hereby permitted shall be carried out solely in accordance with the following plans:

- Amended application form 19/11/21 re applicant
- 104B Site Access
- 07714-SPACE-00-GF-DR-A-01-0001-S3-P1 Ground Floor
- 07714-SPACE-00-RF-DR-A-02-0001-S3-P1 Roof
- 07714-SPACE-00-XX-DR-A-02-0001-S3-Rev P3 Elevations 20/10/20
- 07714-SPACE-00-XX-DR-A-90-0001-S3-P4 Site Location Plan
- 07714-SPACE-00-XX-DR-A-91-1008-S3-P4 Boundary Treatment
- 07714-00-XX-DR-A-91-1001 S3 Rev P16 Site plan
- Dwg AMS TPP Rev C Arboricultural method statement
- AMS TPP Rev C Tree protection plan
- AIA TPP Rev C Tree protection plan
- Arboricultural impact assessment report Rev C
- Ground Investigation report (July 2016)
- SK0001 Rev C Drainage Strategy Plan.
- Noise assessment
- Ecological Impact Assessment. Rev H 19/11/21
- Stage 1 HRA screening and stage 2 Appropriate Assessment Rev I 10/01/22
- Flood Risk and Drainage Impact Assessment ref 2019051 Rev D dated August 2019
- Phase II Geo Environmental site investigation and risk assessment 21/12/21
- Letter (Portland consultant engineers) 2019051-mg-001a (0003) re ground improvements 21/12/21
- Predicted vibration levels specification sheet 10/02/21
- Biodiversity assessment to demonstrate net gain 3/2/21
- DWG 01 Proposed Lighting layout 18/05/21
- DWG 00 car parking lighting 18/05/21
- Lidl CB data sheets 6m lighting column (Ref. TB061)
- Travel Plan
- 4251-MP-00-00-DR-S-0110-S2 REV P01 Foul water drainage general arrangement Amended 8/7/21
- Lidl CB data sheets
- Tree planting guidelines
- MAN.1234.001.LD.45.001 Rev A Planting plan (1 of 2)
- DWG 16-1093-201 Rev C General arrangement (highway works)
- 002 Rev C External works layout 20/10/20
- E-mail re 27/11/19 re drainage
- Landscape and management Ecological Management plan Rev A Feb 2022

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

Pre-commencement conditions:

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

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

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

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

Reason: In the interests of general local amenity and in the interests of safeguarding ecological interests and biodiversity, safeguard against flooding the

to the surrounding sites and to safeguard against pollution of surrounding watercourses and drainage systems in compliance with Policy S29, S32 and S35 of the Allerdale Local Plan (Part 1) 2014.

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

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

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

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

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

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

Post-commencement/Pre use commencing conditions:

- 8. The development shall be implemented solely in accordance with Para 7 “Advice and recommendations “of the Phase II Geo Environmental site investigation and risk assessment 21/12/21 and a verification report**

submitted to and approved in writing by the Local Planning Authority, prior to the development being brought into operational use.

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

- 9. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority. Development on the part of the site affected must be halted and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These shall be implemented prior to the development (or relevant phase of development) being brought into use. All works shall be undertaken in accordance with current UK guidance, particularly CLR11.**

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

- 10. The approved lighting details under DWG 01 Proposed Lighting layout 18/05/21, DWG 00 car parking lighting 18/05/21 and Lidl CB data sheets 6m lighting column (Ref. TB061) shall be implemented prior to the commencement of the use of the store and shall not depart from those levels which are specified in the approved details.**

Reason: To safeguard the amenity of nearby residential properties and minimise the impact of the works on the ecological value and species of the River Derwent's watercourse, in compliance with the National Planning Policy Framework and Policy S32 and S35 of the Allerdale Local Plan Part 1, 2014 and Policy SA49 and SA52 of the Allerdale local plan (Part 2)

- 11. The approved operational retail use of the development hereby permitted shall not commence until the approved means of enclosure details outlined on Dwg 07714-00-XX-DR-A-91-1008-S3-P4 - Boundary Treatment Plan, have been constructed. These details shall be retained at all times and no part thereof shall be removed without the prior consent of the Local Planning Authority.**

Reason: To ensure a satisfactory standard of development which is compatible with the character of the surrounding area in compliance with Policy S33 and DM14 of the Allerdale Local Plan (Part 1).

- 12. A full specification for all the fixed refrigeration and ventilation plant for the retail A1 units including octave band data, its location and any necessary mitigation shall be submitted to and approved by the Local Planning Authority prior to any construction works above plinth level. The development shall be implemented solely in accordance with the approved**

details prior to the commencement of the use and retained at all times thereafter.

Reason: To safeguard the amenity of nearby residential properties, in compliance with the National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), 2014.

- 13. All planting, seeding or turfing comprised within the approved scheme Dwg MAN.1234.001.L.D.45.001.P4 Planting Details Rev P4 shall be carried out in the first planting season following completion of the development, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other similar size and species, unless otherwise agreed in writing by the Local Planning Authority.**

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

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

Reason: To secure proper drainage and to manage the risk of flooding and pollution and to accord with policy S29 of the Allerdale Local Plan Part 1 2014.

- 15. Development shall not start trading until the approved pedestrian crossing has been implemented in accordance with the approved details on Dwg 16-1093-201 Rev C Access General Arrangement and shall thereafter be retained for the lifetime of the development.**

Reason: In the interests of pedestrian safety and in compliance with the National Planning Policy Framework and Policy S22 of the Allerdale Local Plan (Part 1), 2014.

- 16. The development shall not be brought into use until the visibility splays and access arrangement providing clear visibility as shown on plan 16-1093-201 Rev C Access General Arrangement are provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, or object of any kind shall be erected or placed and no trees, bushes or other plants which exceed 1m in height shall be planted or be permitted to grow within the visibility splay which obstruct the visibility splays.**

Reason: To ensure an acceptable standard of highway access during the construction and operational use of the site, in compliance with the National Planning Policy Framework and Policy S22 of the Allerdale Local Plan (Part 1), 2014.

- 17. Within 6 months of the development (or any part thereof) opening for business, the developer shall prepare and submit to the Local Planning Authority for their approval an updated Travel Plan which shall identify the**

measures that will be undertaken by the developer to encourage the achievement of a modal shift away from the use of private cars to visit the development to sustainable transport modes in accordance with the principles of Chapter 7 of the Cora Travel plan document dated August 2019 . The updated plan shall include details of an annual report reviewing the effectiveness of the Travel Plan and including any necessary amendments or measures. The measures identified in the Travel Plan shall be implemented by the developer within 12 months of the development (or any part thereof) opening for business.

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

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

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

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

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

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

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

- 21. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Flood Risk and Drainage Impact Assessment ref: 2019051 Revision D dated August 2019 proposing surface water discharging into watercourse written by Portland Consulting Engineers, as amended by the foul drainage connection plan 4251-MP-00-00-DR-S-0110-S2 REV P01 Foul water drainage general arrangement Amended 8/7/21.**

No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul shall be agreed in writing by the Local Planning Authority prior to the commencement of the

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

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

- 22. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:**
- 1. A site investigation scheme, based on the desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.**
 - 2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.**
 - 3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.**

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

Note to applicant: Tree planting guidelines.



