

Application Reference Number:	4/23/2314/0F1
Application Type:	Full Planning Application
Application Address:	Land at Preston Street, Preston Street, Whitehaven
Proposal	Erection of a discount foodstore with associated access, parking, hard and soft landscaping and associated works.
Applicant	Aldi Stores Ltd
Agent	Avison Young
Valid Date	31st October 2023
Case Officer	Chris Harrison

Cumberland Area

Copeland and Whitehaven

Relevant Development Plan

Copeland Local Plan 2021-2039.

Reason for Determination by the Planning Committee

The development is in the opinion of the Head of Planning and Place of strategic significance.

Part of the Application Site is on land that is in the ownership of Cumberland Council and representations have been received objecting to the development on material planning grounds.

Recommendation

That the application is granted subject to the conditions outlined at the end of this report, with the Assistant Director of Inclusive Growth and Placemaking being given delegated authority to add to and/or make any amendments to the conditions as considered appropriate and further delegates to the Assistant Director of Inclusive Growth and Placemaking authority to agree the final terms and conditions of the section 106 agreement, which as detailed in this report are proposed as:

- A financial contribution of £6,600 for the review of the Travel Plan Monitoring reports; and,
- A financial contribution of £50,000 towards the delivery of a parallel signal controlled crossing on Preston Street.

If the section 106 agreement is not entered within 6 months of the date of this Planning Committee or any other extension of the determination period mutually

agreed with the Applicant, delegate authority to the Assistant Director of Inclusive Growth and Placemaking to refuse the planning permission on the grounds that the planning obligations required to make the proposed development acceptable in planning terms have not been legally secured.

1.0 Site and Location

- 1.1 The Application Site extends to c.1ha and comprises an existing car park located to the east of Preston Street, Whitehaven and a parcel of currently vacant land located to the rear of Nos. 1-4 and the Former Annlea House (No. 10) The Ginns, Whitehaven.
- 1.2 The existing car park is currently operated as a pay and display car park.
- 1.3 The Application Site is located c.275m south and c.200m west of the defined Whitehaven Town Centre.
- 1.4 The Application Site is irregular in shape and is broadly orientated north south.
- 1.5 The Application Site is enclosed by a combination of rubble stone walls, fencing, brick walls and vegetation. The eastern and southern boundaries of the currently vacant land have no physical delineation.
- 1.6 The Application Site is bounded to the north by an existing footway / Cycle Route 72 beyond which are retail units with associated parking, including an existing ALDI foodstore; to the west by Preston Street and existing dwellings beyond which is an existing ASDA foodstore and commercial development; and, to the east and south by further currently vacant land.
- 1.7 The Application Site is not located within a conservation area.
- 1.8 There are no listed buildings on or directly adjacent to the Application Site.
- 1.9 The Application Site is located in Flood Zone 1, which is the lowest category of flood risk.
- 1.10 The Application Site is partially located within an area identified as having high risk in relation to coal mining.
- 1.11 The Application Site is located within an area identified as potentially contaminated land.
- 1.12 United Utilities assets are located within the Application Site.

2.0 Proposal

- 2.1 Full Planning Permission is sought for the following development:

- Erection of a Use Class E foodstore.
- Upgraded access from Preston Street.
- Provision of 100no. car parking spaces including: 5no. accessible spaces and 9no. parent and child spaces. 4no. motorcycle bays are proposed. 4no. parking spaces are to be equipped with Electric Vehicle Charging Points.
- 8no. short-stay bicycle parking spaces are proposed for customers. Long stay bicycle parking spaces are proposed within the foodstore warehouse for staff.
- Soft and hard landscaping.
- Servicing provision i.e. a dock-levelling system.

- 2.2 The proposed foodstore is a 'blade roof' Aldi foodstore design. The proposal has a mono-pitched roof. It is proposed to finish the building externally with silver and grey cladding, aluminium windows, steel doors and glazing. A canopy wraps above the shop frontage which runs along the north and west elevations.
- 2.3 The gross external floor area of the proposed foodstore is 2,127m².
- 2.4 The height of the proposed foodstore is 6.25m to the front elevation and 5.0m to the rear elevation.
- 2.5 Customer vehicular, walking and cycling access is provided at the northwest extent of the Application Site via a proposed priority-controlled T-junction with Preston Street. Dropped kerb and tactile paving is proposed to facilitate pedestrians crossing the access and connect to pedestrian priority routes/walkways connecting through the car park to the entrance to the foodstore.
- 2.6 A dedicated servicing area is proposed the southeast of the foodstore. Deliveries vehicles will be required to manoeuvre through the car park to a dedicated and demarcated delivery area that is designed to accommodate an articulated HGV.
- 2.7 The proposed refrigeration plant is located at ground level to the southwest of the foodstore.
- 2.8 It is proposed to dispose of foul water to the public main sewer and surface water to a watercourse via a scheme of attenuation.
- 2.9 The following opening hours are proposed:
- 08:00 hours to 23:00 hours – Mondays to Saturdays; and
 - 09:00 hours to 18:00 hours – Sundays – Current Sunday trading laws mean that the foodstore can only open for up to six hours on a Sunday.
- 2.10 The Applicant has confirmed that the development will employ 30 full time equivalent employees.

3.0 Background To Application and Community Consultation

- 3.1 An existing Aldi foodstore is located circa 200m north of the Application Site. The existing Aldi foodstore has a dedicated customer base in Whitehaven; however, the foodstore has an outdated layout and appearance, which affects the overall customer experience.
- 3.2 The Applicant has confirmed that they have explored a number of options to deliver an improved customer experience at the existing foodstore for many years; however, there are a number of constraints limiting the opportunities to extend.
- 3.3 The Applicant has therefore concluded that the only viable route to offering an improved, larger Aldi foodstore in Whitehaven is by relocating to a new site nearby.
- 3.4 The Applicant and supporting project team have undertaken pre-application consultation involving the local community and key stakeholders at various meetings, a virtual exhibition, a consultation website, neighbour engagement through in-person door knocking, and reply cards. The results of the consultation are reported in a Statement of Community Involvement (SCI).
- 3.5 The SCI confirms that there was a very high level of support for Aldi's proposals for an improved store at Preston Street, Whitehaven from local residents: with 98.6% of respondents noting their support via the reply card exercise. The reply cards sought the opinions on a range of additional themes that would be able to inform proposals. The two key themes of concern identified were traffic/access and parking provision.
- 3.6 In addition, Full Planning Permission is also sought by Aldi Stores Limited for the erection of discount foodstore on Land at East Road, East Road, Egremont – application ref. 4/24/2044/0F1. This is considered in a separate Agenda item.

4.0 Directly Relevant Planning Application History

App. Ref. 4/04/2480/0 - Outline application for Class A1 foodstore, petrol filling station, car parking, servicing, and associated facilities – Withdrawn.

App. Ref. 4/06/2686/0 - Superstore with petrol filling station, parking, servicing and associated facilities – Withdrawn.

App. Ref. 4/17/2248/0F1 - Temporary car park (4 yrs) for approximately 89 spaces – Approved.

App. Ref. 4/21/2474/0F1 - Renewal of permission for temporary car park (4 yrs) for approximately 89 spaces – Approved.

The currently vacant land to the east benefits from Full Planning Permission for the erection of 35 dwellings and associated infrastructure – application ref. 4/22/2466/0F1. The planning permission is extant and lawfully capable of implementation.

5.0 Consultations and Representations

Whitehaven Town Council

December 2023

The Town Council would like the Planning Committee to know that they are fully supportive of the Full Planning Application.

April 2024

No negative objections or comments.

August 2024

No negative objections or comments.

November 2024

No negative objections or comments.

Cumberland Council – Environmental Health

Environmental Health are supportive of the proposal.

Noise

Environmental Health note with slight reservation that 24 hours deliveries to and from the foodstore are proposed.

The provision and maintenance of the acoustic barriers to provide mitigation against noise transmission from the nighttime activities will be required.

The Noise Assessment demonstrates that nighttime deliveries can be undertaken in accordance with their standard logistical requirements.

Air Quality

Air quality is good within the Copeland area even where the monitored air pollutant concentrations are at their highest in central Whitehaven.

There are not the elevated levels of traffic volume and concentration of industry and mass housing development as may be the case elsewhere in more urban environments of the country.

Consider that the Air Quality Assessment is a fair and reasonable document and that its conclusions are acceptable. The conclusion of the report should be incorporated into the required Construction Environmental Management Plan.

Request the imposition of planning conditions requiring: the reporting of unexpected contamination; the submission, approval and implementation of a Construction Environmental Management Plan; a limit on construction hours; and, the construction and maintenance of the required acoustic barriers.

National Highways

No objection.

Cumberland Council – Historic Environmental Officer

The archaeological desk-based assessment of the Application Site commissioned by the Applicant highlights that the development has the potential to disturb buried archaeological assets of an 18th century glass works, a 19th century pottery, a 19th century fever hospital and a 19th century school.

It is therefore recommended that in the event planning consent is granted, an archaeological evaluation and where necessary, a scheme of archaeological recording of the Application Site be undertaken in advance of development. This programme of work should be commissioned and undertaken at the expense of the developer and can be secured through the inclusion of two conditions in any planning consent.

The Coal Authority

Material Consideration

The Application Site falls within the Coal Authority's defined Development High Risk Area.

Within the Application Site and surrounding area there are recorded coal mining features present at surface or shallow depths. The risk these features may pose should be considered as part of the planning process.

The Coal Authority records indicate that the Brick (Bannock) coal seam is conjectured to outcrop at or close to the surface of the Application Site. This seam is recorded to have been worked at shallow depth beneath the Application Site. These recorded mining features could affect public safety and surface instability for the redevelopment of the Application Site.

A Geo-environmental Appraisal and Coal Mining Risk Assessment has been prepared by 3E Consulting Engineers. The Assessment reviews relevant sources of coal mining and geological information, including a mine abandonment plan and the results of intrusive ground investigations carried out at the Application Site.

The Assessment indicates that intact coal was encountered during drilling, with no evidence of voids, broken ground or loss of flush was recorded at any of the rotary borehole locations. The assessment acknowledges that the Bannock coal seam is recorded to have been worked at shallow depth and considers that there exists the potential for the boreholes to have intersected intact supporting pillars within the workings. As such and given that the coal seam lies within influencing distance of the site surface, the assessment takes a precautionary approach to allow for localised probing and grouting across the building footprint.

Welcome the recommendation for the undertaking of further intrusive site investigations. These should be designed and carried out by competent persons, in cognisance of the conclusions of the submitted report. The results of the investigations should be used to inform any remedial works and/or mitigation measures that may be necessary to ensure the safety and stability of the proposed development. Due consideration should be given to extending these works across the whole of the Application Site and not just the building footprint especially given the shallow ratio of rock cover to seam thickness.

Mine Gas

It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning and Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the Application Site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.

Sustainable Drainage (SuDS)

Where SuDS are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the Application Site.

Conclusion

It is recommended that a pre-commencement planning condition is imposed to secure the completion of further intrusive investigations and a pre-occupation planning condition requiring the submission of a signed statement or declaration prepared by a suitably competent person confirming that the Application Site is, or has been made, safe and stable for the approved development.

Cumbria Police – Crime Prevention Officer

The Applicant has demonstrated compliance with the requirements of Policy DM10 of the Copeland Local Plan 2013-2028 and Policy DS6PU of the Emerging Copeland Local Plan 2017 - 2038.

Recommend the incorporation of all exterior doors to be certified to LPS 1175 and glazing, including curtain walling, to include a laminated type (BS EN 356:2000) to resist forced entry and malicious damage. The interior spaces should exhibit robust access controls, to prevent unauthorised entry to private offices / stores / staffroom, etc.

If police attendance is required to the intruder alarm, the system and appointed Alarm Receiving Centre must be compliant with National Police Chiefs' Council Security Systems Policy.

There is no information that suggests the Applicant shall provide an Automated Teller Machine at the premises (associated crime risks).

Natural England

No comments received.

United Utilities

Drainage

The submitted Drainage Strategy, Flood Risk and Drainage Assessment are acceptable in principle to United Utilities.

Request a planning condition requiring that the development be completed in accordance with the principles set out in the submitted Flood Risk and Drainage Statement and retained for the lifetime of the development and a planning condition requiring the submission, approval and implementation of a Sustainable Drainage Management and Maintenance Plan.

Assets

According to our records there is an easement within the Application Site which is in addition to our statutory rights for inspection, maintenance and repair. The easement dated 31/03/2010 UU Ref: Z3292 has restrictive covenants that must be adhered to. It is the Applicant's responsibility to obtain a copy of the easement document, available from United Utilities Legal Services or Land Registry. The Applicant must comply with the provisions stated within the document.

It is the Applicant's responsibility to investigate the existence of any pipelines that might cross or impact their Application Site and also to demonstrate the exact relationship between United Utilities' assets and the proposed development. The Applicant should not rely solely on the detail contained within asset maps when considering a proposed layout.

Public Sewer

A critical public sewer crosses the Application Site and United Utilities will not permit building over it. Require an access strip for maintenance or replacement and this access must not be compromised in any way. The minimum distances that might be acceptable to United Utilities are detailed within Part H of the Building Regulations however, it is recommended that the Applicant determines the precise location, size, depth and condition of the pipeline as this is likely to influence the required stand-off distance from any structure.

Request the imposition of a planning condition to afford appropriate protective measures for the wastewater asset, as a S185 diversion application for the amendments to the public sewers is progressing.

Arboricultural Consultant

The proposed layout involves construction and ground level changes close to trees growing on the Application Site.

The submitted Arboricultural Impact Assessment identifies nine trees and five groups. The Report categorises five of these trees as moderate-quality and, four trees and five groups as low-quality.

The Assessment concludes that it will be necessary to remove some of the existing trees to facilitate the proposed development - Trees 2-9, Groups 2, 3, 5 and the majority of group 4.

An Arboricultural Method Statement describes how to protect the retained trees during the construction of the proposed development.

A Landscaping Plan has been submitted; however, this does not provide a specification for the plants and trees, or a strategy for the management and future maintenance of the landscaping scheme.

It is recommended that planning conditions are imposed to secure completion of the development in accordance with the submitted Arboricultural Method Statement and the submission and approval of a Landscaping Plan giving details of the locations and specification for the proposed trees and shrubs and include a planting method statement and a five-year maintenance plan.

Environment Agency

No objections to the development as proposed.

Cumberland Council - Highways

Transport Assessment

Concur with the conclusions of the Transport Assessment that the development will have a good level of connectivity and be accessible on foot, cycle, bus and train from local destinations.

The development trips in the 2028 with development scenario, show only a marginal relative increase over the existing of a maximum of 15 two-way trips in the Saturday peak hour. This trip impact is shown not to have any significant impact at the junction onto Preston Street but does increase the ratio to flow capacity beyond 'practical capacity' on the Preston North arm at the mini roundabout. The ratio to flow capacity is still within its theoretical capacity and the predicted queue and delay is not considered to be a serious impact on existing traffic conditions.

There are some minor improvements that could be made to the walking, cycling and bus infrastructure within and adjacent to the Application Site that could enhance the quality of the routes and facilities, visibility and overall customer experience.

Travel Plan

Welcome the Interim Travel Plan. Note the proposed measures to influence and support modal shift, and the monitoring proposals where the targets and measures can be reviewed in conjunction with the Travel Plan coordinator.

A fee of £6,600 is required to be secured via a Section 106 Agreement to cover the monitoring work over the five year period of the plan.

Internal Site Layout & Parking

The layout is suitable, and the LHA welcome the slightly larger than minimum sized spaces.

The number of parking spaces proposed does not comply with the Cumbria Design Guide Appendix 1 - Parking. The requirement should be based on the GFA (1874 m²) not net sales area, resulting in a need for 125 spaces whereas only 98 spaces are provided.

It is noted that the foodstore is essentially an extension to the existing in terms of customer base and that the evidence does suggest just a marginal increase. Due to the marginal nature of any impact from insufficient parking and that any overflow parking is likely to take place in adjacent stores and not the highway (it is not likely that customers will park on the highway due to waiting restrictions), the possible shortfall is not considered to have a material impact on the highway or highway conditions.

The service proposals are adequate.

The proposed cycle parking meets the minimum standard of 8no. spaces – 4no. Sheffield stands. The location is near to the entrance which is good; however, the Applicant could consider additional provision for the C2C cyclists and staff who may cycle to work.

The applicant should consider enhanced cycle facilities including:

- additional short stay parking and provision of long stay parking in the form of cycle lockers / hanger.
- Including provision for cargo / non-standard cycles should also be considered. (there appears to be space next to the regular cycle stands).
- The provision of cycle pump / maintenance kit for staff is identified in paragraph 7.2.7 of the Travel Plan. It is suggested the applicant considers provision of an 'off the peg' outdoor cycle maintenance station for staff and public use which could be especially useful for C2C riders.
- The applicant could consider providing changing and showering facility for staff.

S278 Works / offsite Highway works

It is considered that the footway along the whole frontage (up to No.1 Ginns) should be resurfaced due to the invasive works required to build the junction, construct the retaining / boundary wall, reinstate unused dropped kerbs and put in new dropped kerbs. The wide granite kerbs should be replaced by standard concrete kerbs.

Note the steps proposed for the cut down from Preston Street opposite the Asda entrance and agree that due to the level changes, this is acceptable given the accessible entrance nearby.

The main access needs to have dropped kerbs and tactile paving at the crossing across Preston Street.

The pedestrian refuge on Preston Street is being relocated so the existing footways on both sides of the road will need to be reinstated.

This work will need to be delivered by way of a S278 agreement.

Widening of NCN72, Intervisibility to NCN72 and Link to NCN72

NCN72 is sub-standard. The section running beside the Application Site is only 2.4m wide, where best practice says it should be 3m wide. In addition, the boundary wall is higher than ideal, restricting through and intervisibility along this section with its two sharp corners. The opportunity exists now to widen this path into the site slightly and also improve user experience by lowering / replacing the boundary wall (to 600mm). This will create a higher quality and more pleasant user experience. As well as benefiting the local and long distance cyclists, this route will be used by locals using the foodstore so will. The developer should also consider creating an entrance / gap into the site in the wall on the NE side of the site near the hatched HGV access point. This would create a more direct link to the foodstore for users of the NCN72 path approaching from the east.

The proposal to lower the boundary wall to 1.5m (rather than the 600mm suggested), is a compromise. It is acknowledged that it would still be an improvement over the existing, offering better intervisibility. This is still some way off the recommended viewing height of 800 mm for the visibility envelope for recumbent cyclists and children (LTN 1/20) and therefore does not provide the same safety and amenity benefits of a lower wall.

It is disappointing that this once in a lifetime opportunity to widen the NCN72 path within the red-line boundary has not been taken. The widening proposal (and lowering the wall further) would provide a material benefit which the planning authority might want to consider when making their recommendation. It has to be concluded that proposed scheme would not result in an unacceptable impact on safety or capacity as it is already a well-used existing route, and any upgrade or improvement is better than nothing.

It is believed that there would be a safe design solution to deliver the more direct path, albeit with some changes required to the car parking and access layout. It is acknowledged that the proposal does provide access from NCN72, and the diversion / extra distance is not significant enough to recommend refusal.

Crossing – Preston Street

An LTN 1/20 compliant 2-way segregated cycle route linking the harbour to the NCN72 route at the site is being planned using Preston Street as the route to the harbour. This is a 'Priority 1 Route' in the LCWIP, and the intention is that this route will provide a high quality sustainable travel option to and from the harbour and town centre to the C2C route and other local and regional destinations. This route will also provide a critical link to provide safe and convenient walking, cycling and wheeling trips to and from the new foodstore connecting the town centre and surrounding areas to the NCN72 and other routes and destinations. A parallel (walking and cycling) signal controlled crossing is proposed just to the north of the foodstore entrance (in line with the entry to the NCN72 path) to facilitate crossing Preston Street. To meet sustainable travel targets and attract customers to walk and cycle from the town centre and offices at Albion Square for example, it is essential that the signal controlled crossing is provided so the proposed safe off-carriageway route is accessible. It is considered a relevant and necessary improvement as part of this application and request that the Applicant make a financial contribution towards the estimated scheme cost to deliver a parallel crossing to be paid prior to trading.

The financial contribution of £50k towards the delivery of the signal controlled crossing of Preston Street adjacent to the foodstore entrance proposed by the Applicant is welcomed.

Conclusion

No objection subject to:

- a planning obligation securing a financial contribution of £6,600 for the review of the Travel Plan Monitoring reports and £50,000 towards the parallel signal controlled crossing on Preston Street for the improvement of the local Cycle network; and,
- the imposition of planning conditions securing the submission, approval and implementation of detailed highway specifications, the achievement of visibility splays providing clear visibility of 43 metres measured 2.4 metres down the centre of the access, the submission, approval, implementation and monitoring of a Travel Plan and the submission, approval and implementation of a detailed specification for the modifications to Preston Street.

Cumberland Council - LLFA

The Application Site is in Flood Zone 1 and not shown to be at risk of any type of flooding.

No objections to the surface water drainage strategy. This includes the necessary attenuation storage, discharge flow control, positive drainage and treatment infrastructure to comply with the SUDS manual. As the proposal replicates the greenfield run-off, this design can be seen as a betterment over the existing scenario which is an impermeable/tarmac surface. This proposal could in fact reduce the flood risk downstream marginally.

A Climate Change factor of 50% has been used to model rainfall.

An exceedance flow diagram has been prepared.

There is a Main River (Pow Beck), and a UU owned sewer running through the Application Site, requiring diversions. The developer should discuss these matters with the Environment Agency and United Utilities respectively to ensure their approval is given and any necessary permits and approvals are obtained.

Request the imposition of a planning condition securing that the surface water drainage scheme be constructed, maintained and managed in accordance with the approved details set out in the Flood Risk Assessment & Drainage Statement dated 13.12.23 and a planning condition requiring the submission, approval and implementation of a Construction Surface Water Management Plan.

Representations

The application has been advertised by way of site notices, a press notice and notification letters issued to neighbouring dwellings.

Representations have been received from eleven parties. Three parties have submitted representations in objection and eight parties have submitted representations in support.

Issues Raised - Support

The existing ALDI foodstore makes a great contribution to affordable healthy eating by many cash-strapped families in Copeland, as well as breathing life into what is a shabby part of Whitehaven.

The existing Aldi foodstore is very well patronised but parking is at a premium and the small size of the foodstore means that the range of products on sale is less than in larger ALDI foodstores. A new and larger ALDI with its own discrete parking in the new location will improve what has been an eyesore for years and help to revitalise this area of town.

The area would benefit from the larger Aldi foodstore.

The development will give a boost for the local economy and provide a greater shopping experience for residents and visitors.

The development will provide an investment of approximately £6m into the local economy.

Whitehaven is a large town with very few large shops.

The development makes effective use of the Application Site.

The development will reuse an area of land that has fallen into a poor state of neglect and that needs developed.

The development will be a valuable addition to the town and stop people going to other areas to shop.

The development will deliver a much-needed upgrade to the shopping experience in Whitehaven.

The development of a larger foodstore would provide good accessible value merchandise to the customers living on this side of Whitehaven.

The development will provide an accessible location for disabled shoppers in this area of Whitehaven. The existing ASDA store is totally in accessible to disabled shoppers.

The huge amount and complexity of pre-planning work completed by experts whose reports have been made available for public scrutiny and the overall design and appearance of the planned foodstore are impressive.

Issues Raised – Objection

Deficiencies In Retail Assessment

There are significant inaccuracies in the submitted retail assessment and addendum letter dated 12th April 2024, which undermine the overall retail impact assessment.

The assessment states that household survey data has been used to calculate the turnover of the existing Aldi foodstore and determined that the existing Aldi foodstore is overtrading compared to the company average, equating to a turnover of £26.1m. In their letter dated 12 April, they state, *"It is reasonable to assume that the proposed new store would simply divert trade from the current Aldi operation."* We agree. They also assert that the additional 333 sqm of convenience floorspace would result in an uplift of £3.74m in turnover.

On the Agents' own understanding, the turnover of the existing Aldi (£26.1m) would be diverted to the proposed Aldi, in addition to an uplift of turnover associated with the additional 333sqm of convenience floorspace (£3.74m), as set out in Table 9a. Thereby delivering a total turnover of £29.84m. This is completely at odds with the

figures included in Table 8b. Utilising only sales density figures for the floor area of the new foodstore, the applicant concludes that the turnover would be just £12.19m, allowing £13.88m in residual turnover.

There would be no residual turnover. The proposed Aldi foodstore would, on the applicant's own explanation, have a turnover greater than the existing Aldi, owing to the diversion of trade and floorspace uplift.

The Planning and Retail Statement relies heavily on the assumption that a new foodstore operator in the existing Aldi site would absorb any residual turnover concluding that a new foodstore operator would *"be more than sufficient to absorb a turnover of £7.47m in the scenario that a new foodstore operator takes occupation of the vacated store. It therefore follows that no retail impacts would arise."* With no 'residual turnover' to absorb, it is therefore our conclusion that adverse retail impacts are likely to arise.

The retail impact assessment places significant weight on the reoccupation of the former Aldi site with a new foodstore operator, when there is no evidence that another food retailer would seek to occupy the site or any indication of how long the unit will remain vacant.

There are significant inaccuracies in the Retail Impact Assessment which have undermined its effectiveness, and this is not in accordance with the requirements of Policy ER7 of the development plan. We request that an independent retail assessment be undertaken to assess its accuracy. Determination of this application should therefore be deferred until such advice is prepared, or otherwise it should be refused.

Sequential Approach

The sequential test as required by the NPPF and Policy ER7 confirms that the first preference is for main town centre uses to be located in town centres, followed by edge-of-centre locations and only if no other suitable sites are available should out-of-centre sites then be considered. The sequential test has not been carried out effectively. The initial step should be to identify all 'potential opportunities.'

The Former Wilko Store at 23-24 Lowther Street is available and being actively marketed. It provides a sequentially preferable, viable and available site and this opportunity has not been considered by the Applicant in the sequential assessment.

The Former Wilko Store is in the town centre, on a lively street and the vacant building benefits from a purpose-built retail fit-out and a lawful retail use. It has a 3,209sqm ground floor, and 250sqm ancillary first floor thereby well exceeding the 1,300sqm size parameters set out by the Applicant. The site also has a service yard and holding area to Queen Street facilitating deliveries.

Being a town centre location, there is little requirement for on-site parking facilities as the foodstore will both benefit from and encourage linked trips by foot or public transport in the town centre. This is why planning policy at national and local levels has a 'Town Centre First' approach which is enforced by the impact and sequential

assessment tests. These matters are all central tenets of local and national planning policy relating to sustainable development.

Whitehaven is a model, 'Town Centre First' town, and the addition of an Aldi would not only further retain viability in the town centre in terms of investment and foot traffic but would fill an additional vacant building in the town centre thus helping to address the high vacancy rates, identified as 20% by the Applicant.

With town centre opportunities inevitably being more constrained by neighbouring development, and infrastructure, the scale of opportunities will often be more modest than in out-of-town locations. The Former Wilko Store more than meets the floor space requirements of the Applicant, and with public car parks within walking distance elsewhere within the town centre, the advantages gained from better complying with policy objectives are irrefutable. Thus, the sequential assessment should assess the vacant Wilko store, without such the sequential test is failed due to the existence of a suitable and available alternative. This justifies the refusal of planning permission in accordance with Policy ER7 and the NPPF.

Strategic Employment Site Allocation

The proposed development is located on 'Land at Ginns' as identified in Policy EMP3 as an Employment Opportunity Site (WE0S5) and safeguarded employment land in the Employment Land Review update (2021).

Safeguarded employment land is subject to Policy DM3 wherein land contributes to the provision of employment land to meet the economic development needs of the Borough. As set out in Policy DM3, non-employment uses must demonstrate that the site is no longer viable for employment use, that proposed benefits outweigh the loss of employment land and provide robust evidence there are no suitable alternatives for the proposal.

Sequentially preferable site in the Town Centre, the Former Wilko store, has been identified as a suitable alternative. Therefore, the proposed development is not in accordance with the objectives for the retention of employment land and does not align with Policy DM3 criteria for non-employment land development within safeguarded employment areas.

Existing Premises

The Planning and Retail Statement explains that the proposed Aldi store would be a relocation from existing premises on Preston Street, and that vacation could allow a 'new foodstore operator' to occupy the site. Because the existing premises has the benefit of an open retail permission, re-use for alternative retail purposes would be possible without a fresh planning permission.

Inaccuracies in the Retail Impact Assessment indicate that there would be no 'residual turnover', and retail impacts would likely arise from a new foodstore operator on this site, in conjunction with the proposed Aldi relocation.

In order to conform with the assessment of the application proposals there should be a modification of the existing planning permission under Section 97 of the Act to remove food retailing. This can be secured by the Council, working with the Applicant, who appears to be the freeholder of the existing premises. A S106 Agreement can require this and for retailing not to commence in the new premises until such modification has been made to the extant planning permission. Such an approach is not unusual, and there are many examples with the relocation of other discount food retailers from existing premises. A modification to the existing permission is a certain mechanism that goes to the heart of the matter.

Other Matters

I responded to the public consultation by Aldi; however, I didn't receive a reply, and my concerns seem to have been ignored.

The boundary line for the proposed incorporates the lane beside and behind the houses on The Ginns. This land is on the deeds as shared access. Object to the walls surrounding the houses being knocked down and the side and back access being incorporated into the plans. The back wall in question which separates the back access from the land behind is much higher than our yard walls. This will keep light pollution to a minimum if left in situ. All the stores along this road are lit at night with lights to help shoppers see the car park. This will cause adverse impacts upon residential amenity, which is already impacted by lighting to the front. It is not necessary to knock either of the walls down because there won't be access points from those locations. These walls will provide privacy and keep noise and light pollution to a minimum for the residents in the houses. Appreciate that the Applicant wants these walls knocked down for aesthetic reasons and replaced with see through fences, but there is no other reason other than pure aesthetics why they are included in the application.

An Archaeological Survey of the Application Site should be completed. A little pottery figurine has been found in the area.

There were rats shortly after the trees were cut down next to the cycle path.

6.0 Planning Policy

- 6.1 Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Development Plan

On 1st April 2023, Copeland Borough Council ceased to exist and was replaced by Cumberland Council as part of the Local Government Reorganisation of Cumbria.

Cumberland Council inherited the local development plan documents of each of the sovereign Councils including Copeland Borough Council, which combine to form a Consolidated Planning Policy Framework for Cumberland.

The inherited local development plan documents continue to apply to the geographic area of their sovereign Councils only.

The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.

Copeland Local Plan 2021 - 2039 (LP):

Cumberland Council continued the preparation of the LP as commenced by Copeland Borough Council.

The LP was adopted by Cumberland Council on the 5th of November 2024 replacing the Copeland Local Plan 2013-2028 and the saved policies of the Copeland Local Plan 2021-2016.

Strategic Policy DS1: Settlement Hierarchy
Strategic Policy DS2: Settlement Boundaries
Strategic Policy DS3: Planning Obligations
Policy DS4: Design and Development Standards
Policy DS5: Hard and Soft Landscaping
Strategic Policy DS6: Reducing Flood Risk
Policy DS7: Sustainable Drainage
Policy DS8: Soils, Contamination and Land Stability
Policy DS9: Protecting Air Quality
Strategic Policy E6: Opportunity Sites
Strategic Policy R1: Vitality and Viability of Town Centres and villages within the Hierarchy
Strategic Policy R2: Hierarchy of Town Centres
Strategic Policy R3: Whitehaven Town Centre
Policy R7: Sequential Test
Policy R8: Retail and Leisure Impact Assessments
Policy SC1 - Health and Wellbeing
Strategic Policy N1 - Conserving and Enhancing Biodiversity and Geodiversity
Strategic Policy N3 - Biodiversity Net Gain
Strategic Policy N5 - Protection of Water Resources
Strategic Policy N9 - Green Infrastructure
Policy N14 - Woodlands, Trees and Hedgerows
Strategic Policy BE1: Heritage Assets
Policy BE3: Archaeology
Strategic Policy CO2: Priority for improving Transport networks within Copeland
Strategic Policy CO4: Sustainable Travel
Policy CO5: Transport Hierarchy
Policy CO7: Parking Standards and Electric Vehicle Charging Infrastructure

7.0 Key Other Material Planning Considerations

National Planning Policy Framework (NPPF).
Planning Practice Guidance (PPG).
National Design Guide (NDG).
The Conservation of Habitats and Species Regulations 2017 (CHSR).
Cumbria Development Design Guide (CDDG).
Whitehaven Local Cycling and Walking Infrastructure Plan 2022 - 2037 (LCWIP).

8.0 Assessment

Principle of Development

- 8.1 Whitehaven is identified in Strategic Policy DS1 as the Principal Town due to it being the largest settlement in terms of population with the broadest range of day-to-day services, retail stores, employment opportunities and public transport connections. Whitehaven is the primary focus for new development in the plan area including retail.
- 8.2 The settlement boundary for Whitehaven is defined in Strategic Policy DS2. It is stated that development within the defined settlement boundaries will be supported in principle where it accords with the Development Plan unless material considerations indicate otherwise.
- 8.3 Strategic Policy E6 defines a number of Opportunity Sites in and on the edge of the towns of Whitehaven, Cleator Moor, Egremont and Millom as the focus to help regenerate these towns.
- 8.4 Strategic Policy R1 seeks to enhance the vitality and viability of town centres identified in the settlement hierarchy. It seeks to support a network of healthy, vibrant and resilient town centres, comprised of a diverse range of retail, residential, leisure and other main town centre uses, that can effectively respond to change. It seeks to ensure the needs for retail and other main town centre uses are met in full, ensuring that, taking account of commitments as of 1st April 2021, sufficient provision has been made to meet the forecast convenience retail capacity within Copeland up to 2039. Ensure that proposals for new development are consistent in terms of scale and function with the size and role of the centre.
- 8.5 Strategic Policy R2 seeks to support retail, residential, leisure and other main town centre development where it is appropriate to its role, function and position. The Principal Town is identified as the principal focus of new and enhanced retail, neighbourhood facilities and other main town centre uses (as defined in the NPPF) in Copeland.
- 8.6 Policy R6 states that the Whitehaven Primary Shopping Area is the focus for retail use in Copeland.

- 8.7 Policy R7 states that where an application is for a main town centre use which is neither in a town centre nor in accordance with the Development Plan, applicants must submit details to demonstrate that they have carried out a sequential test to the satisfaction of the Council in accordance with national policy. Locations within a town centre must be considered first, followed by edge of centre sites and only if no suitable sites are available will an out-of-town location be supported. The defined centre for retail purposes is taken to be the defined Primary Shopping Area. As such, for retail purposes, edge of centre locations are those well connected to, and up to 300 metres from the Primary Shopping Area. It is stated that in the exceptional cases new retail development will be supported in out of town locations, where the sequential test has been satisfied, the development must: avoid or mitigate against harm to the natural environment, including biodiversity assets; consider and respect the existing landscape and built environment; and ensure that the highway network is capable of supporting additional traffic linked to the use.
- 8.8 Policy R8 states that an Impact Assessment must be submitted where retail development is proposed outside of a defined centre and the proposed floorspace is equal to or above 500sqm within 800m of Whitehaven Primary Shopping Area. For retail uses on the edge of Whitehaven, the defined centre will be the Primary Shopping Area. It is required that the Assessment must be proportionate and appropriate to the scale and type of retail floorspace proposed and that the Assessment should accord with national planning policy and the scope should be agreed between the applicant and Council prior to submission where possible.
- 8.9 The Application Site is located within the defined settlement boundary of the Principal Town of Whitehaven which is the primary focus for new development in the plan area including retail.
- 8.10 The Application Site comprises part of an Opportunity Site ref. OWH05 – Land at Ginns as defined in Strategic Policy E6. Appendix C of the LP defines the preferred uses for the Opportunity Site as being - all town centre uses and also suitable for employment uses – Uses Classes B, C, E, F and Sui Generis (town centre appropriate) uses. The proposed development comprises erection of a Use Class E foodstore and therefore comprises a preferred use for the purposes of Strategic Policy E6.
- 8.11 The Application Site is located c.275m south and c.200m west of the defined Whitehaven Town Centre and c.425 from the defined Whitehaven Primary Shopping Area.
- 8.12 The Copeland Borough Council Retail and Leisure Study Update 2021 Final Report identifies a requirement for between 900 sqm and 1,500 sqm of additional new convenience goods sales floorspace at 2035 (dependant on format and operator). It is concluded that there is a clear quantitative deficiency in terms of the convenience goods offer in Copeland and surrounding Whitehaven in particular.

- 8.13 The proposed development comprises a retail development that is not within the defined Primary Shopping Area; therefore, as per the requirements of Policy R7 a Sequential Test is necessary.
- 8.14 The proposed development has a gross floor area of 2,127m²; therefore, as per the requirements of Policy R8, a Retail Impact Assessment is required.
- 8.15 A Planning & Retail Statement has been prepared in support of the Full Planning Application. This includes a Sequential Test and Retail Impact Assessment.
- 8.16 The methodology and conclusion of a Sequential Test and Retail Impact Assessment have been challenged in the public representations. This has resulted in the submission of a letter dated 12th April 2024 and the documents entitled Retail Addendum – Update to Retail Impact Assessments – September 2024 which in part respond to the issues raised in the public representations.
- 8.17 The Sequential Test concludes that there are no sequentially preferable development sites within Whitehaven Town Centre which could realistically accommodate the scale and form of the retail development proposed - even when demonstrating significant flexibility in terms of developable area.
- 8.18 The Retail Impact Assessment concludes that the trading effects of the retail proposals, together with reoccupation of the existing Aldi store by a new foodstore operator, will not give rise to any retail impacts on designated centres within the primary catchment area, namely Whitehaven Town Centre. It is also concluded that there are no implications arising from these proposals in relation to impacts on existing, committed or planned investment in Whitehaven Town Centre.
- 8.19 In addition to the above, Cumberland Council have commissioned an independent assessment of the retail and town centre policy issues by Nexus Planning - Planning Application Reference 4/23/2314/0F1 - Final Appraisal of Retail and Town Centre Policy Issues – June 2024; and Planning Applications 4/23/2314/0F1 and 4/24/2044/0F1 - Addendum to Appraisal of Retail and Town Centre Policy Issues – September 2024.
- 8.20 In respect of the Sequential Test, the independent assessment confirms that the information submitted by the Applicant has been reviewed and a search for potentially available and suitable units and sites within and on the edge of Whitehaven town centre has also been completed. It is concluded that other sequential sites offering realistic potential to accommodate the proposal were not identified. Specific consideration is given to the public representations made in relation to the availability of the former Wilko store. The assessment concludes that the unit is considered to be 'unsuitable' for the development proposed because the wider site does not provide for the required space to provide the necessary adjacent car parking or servicing.

- 8.21 It is concluded that the grant of planning permission for the proposed development would not lead to a significant adverse impact in respect of existing, committed and planned public and private sector investment. It is confirmed that recent documents and wider aspirations for the future of Whitehaven Town Centre published by the Council have been received and it is not considered that the proposed development could jeopardise any future planned improvements to the centre.
- 8.22 In respect of the Retail Impact Assessment, it is concluded that the proposed development and the potential new food retailer in the vacated existing Aldi store on Preston Street unit, either solus or cumulatively with the development proposed under application ref. 4/24/2044/0F1, would not lead to a significant adverse impact on the vitality and viability of any defined centre.
- 8.23 The overall conclusion is that the refusal of planning permission for either or both of the applications would not be supported on retail and town centre planning policy grounds alone, subject to planning conditions being imposed to ensure that the proposed development and the development proposed under application ref. 4/24/2044/0F1, for Egremont – considered separately-continue to trade as supermarkets in the manner set out in the supporting planning application documents.

Access and Transport

- 8.24 Strategic Policy CO2 supports the allocation and safeguarding of land that facilitates the Whitehaven Town Centre Enhancements Scheme and will deliver improvement of the local and strategic cycle and walking network. It is stated that development that is likely to have a detrimental impact on the highway network will be resisted.
- 8.25 Strategic Policy CO4 requires that proposals must include safe and direct connections to routes that promote active travel, such as cycling and walking routes where appropriate. Support in principle is outlined for developments which encourage the use of sustainable modes of transport, in particular: proposals that have safe and direct connections to cycling and walking routes where appropriate and those that provide access to regular public transport services; proposals that make provision for electric vehicles; and proposals for the integration of electric vehicle charging infrastructure into new developments. It is required that developments that are likely to generate a large amount of movement secure an appropriate Travel Plan and be supported by a Transport Assessment.
- 8.26 The Applicant has prepared a Transport Assessment and Interim Travel Plan in support the planning application.
- 8.27 Cumberland Council – Highways have assessed the impact of the development on the local highway network including the junction capacities and traffic flows, the accessibility by active means and the technical specifications of the proposed access junction, development layout, parking provision and servicing area.

- 8.28 It is concluded that the development will have a good level of connectivity and be accessible on foot, cycle, bus and train from local destinations. Furthermore, a range of key facilities and services can be accessed from the site, supporting future employees and linked trips for customers.
- 8.29 It is confirmed that the development will not have a serious impact on junction capacity and traffic flows. The development proposals are forecast to generate the following additional vehicular trips during the highway network peak hours:
Friday AM Peak – +3 Arrivals and +3 Departures – +6 Two-Way Trips
Friday PM Peak – +4 Arrivals and +4 Departures – +8 Two-Way Trips
Saturday Peak – +7 Arrivals and +8 Departures – +15 Two-Way Trips
- 8.30 The Interim Travel Plan was welcomed and proposed measures to influence and support modal shift noted. A planning condition is proposed to secure the submission, approval and implementation of a Travel Plan. A monitoring fee of £6600 is sought via a Section 106 Agreement to fund the review of the effectiveness of the Travel Plan over a five year period.
- 8.31 It is concluded that the layout of the development including the parking and servicing provision is acceptable. The development includes 100no. parking spaces, falling short of the 125no. parking spaces required by the Cumbria Development Design Guide. The provision of 100no. parking spaces is accepted given the evidence provided by the Applicant in relation to need and the availability of additional off highway parking in the adjacent retail stores.
- 8.32 It is concluded that the proposed cycling provision was acceptable; however, consideration should be given to enhanced cycling provision for the C2C cyclists. The Applicant has amended the Travel Plan to include provision for short and long stay cycle parking and lockers, provision for non-standard cycles and a cycle pump and maintenance kit for staff. They have however pushed back against the provision of a cycle pump and maintenance kit for C2C riders and showering facilities for staff on the basis that these are not reasonable or necessary given the other measures proposed.
- 8.33 It was identified that there were some improvements that could be made to the walking, cycling and bus infrastructure within and adjacent to the Application Site that could enhance the quality of the routes and facilities, visibility and overall customer experience.
- 8.34 The Applicant has agreed to resurface the site frontage, introduce dropped kerbs and tactile paving to the access and reinstate the footways where the pedestrian refuge is relocated. A planning condition is proposed requiring the submission, approval and implementation of a detailed scheme of works to Preston Street. The works will also be the subject of Section 278 Agreement.
- 8.35 In relation to NCN72, the Applicant has agreed to reduce the height of the boundary wall to 1.5m to improve visibility. It is confirmed any further reduction would pose a safety risk. It is confirmed that a pedestrian link from the car park to the route cannot be accommodated without loss of parking provision,

conflict with delivery vehicles and highlight the availability of a connection from the Application Site frontage within 100m.

- 8.36 The Applicant has confirmed that there are no proposals to provide any improvements to the bus stops within the vicinity of the Application Site as these are existing and already serve the residential area of Whitehaven. When taking into account the frequency of buses which serve these stops, the existing stops are considered to be suitable to continue serving local residents and shoppers.
- 8.37 In the interests of promoting and encouraging sustainable travel, the Applicant has agreed to contribute the sum of £50,000, secured via a s106 Agreement, towards the provision of a parallel (walking and cycling) signal controlled crossing to the north of the proposed store entrance to facilitate crossing Preston Street as per the provisions of the LCWIP proposals in the locality.
- 8.38 Cumberland Council – Highways have confirmed no objections to the development subject to securing the financial contributions outlined above and the imposition of planning conditions securing the submission, approval and implementation of detailed highway specifications; the achievement of visibility splays providing clear visibility of 43 metres measured 2.4 metres down the centre of the access; the submission, approval, implementation and monitoring of a Travel Plan; and, the submission, approval and implementation of a detailed specification for the modifications to Preston Street.
- 8.39 National Highways have confirmed no objection to the development.

Design

- 8.40 Policy DS6P outlines the requirement for new development to meet high-quality standards of design, including measures such as: creation and enhancement of locally distinctive places sympathetic to surrounding context; use good quality building materials that reflects local character and vernacular, sourced locally where possible; support good health and well-being by incorporating high quality, inclusive and useful open spaces and providing high levels of residential amenity; create layouts that encourage walking and cycling; provision of safe and accessible pedestrian routes; create opportunities that encourage social interaction; be of flexible and adaptable design; maximise solar gain; and, address land contamination and land stability.
- 8.41 The proposed is a 'blade roof' design Aldi foodstore. The proposed design has a modern, contemporary style incorporating a mono-pitched roof, with a simple palette of materials combining silver and grey cladding, aluminium windows, steel doors and glazing. A canopy wraps above the shop frontage which runs along the north and west elevations.
- 8.42 The design incorporates extensive glazing on its northern elevation and parts of the western elevation, which address the public spaces and highway. The

glazing will offer views into the sales area, add visual interest and create an active frontage to the development

- 8.43 In relation to scale and massing, the height of the proposed foodstore is 6.25m to the front elevation and 5.0m to the rear elevation. The proposed would be a similar height to existing retail stores due to the change in levels between the Application Site and that development. The proposed will be a much lower height than the residential properties to the southwest of the Application Site.
- 8.44 The Applicant has confirmed that the development is to be designed with a fabric first approach. High efficiency air source heat pumps are proposed to meet the heating and cooling demands of the development, alongside LED lighting with absence/presence control to minimise the electrical energy demand of the development.
- 8.45 Photovoltaics are proposed to the roof of the to assist in meeting future energy demands.
- 8.46 The proposed development includes measures to mitigate crime and safety including: natural surveillance through the proposed glazing, positioning of cycle stands where natural surveillance is available from both the building and car park and the incorporate of open surfaces to the car park and external public spaces. Cumbria Police – Crime Prevention Officer has confirmed no objection.
- 8.47 In terms of layout, it would be preferable to have located the proposed store building adjacent to the boundary with Preston Street to create a stronger developed frontage to the highway and in part screen the parking provision or to position of the proposed store building perpendicular to the highway to better relate to the existing retail development to the north. The Applicant has reviewed the potential to accommodate such changes; however, due to the constraints resulting from the required position of the access and United Utilities assets, it has not been possible.
- 8.48 Notwithstanding the above, on balance and given the existing characteristics, appearance and constraints of the Application Site, it is considered that in design terms, the development is acceptable in its context.

Residential Amenity, Noise and Air Quality

- 8.49 Policy DS6 includes provisions that development mitigates noise pollution through good layout, design and appropriate screening.
- 8.50 Given the form and layout of the proposed, adverse impacts upon the residential amenity of the existing residents through loss of daylight, loss of sunlight, overshadowing, overbearing effects or overlooking will not result.
- 8.51 A Noise Impact Assessment has been prepared in support of the Full Planning Application.

- 8.52 A baseline noise survey was undertaken in August 2023.
- 8.53 The Assessment considers noise from the proposed plant, car park and deliveries; with calculations performed using noise modelling software, and the results interpreted in accordance with relevant standards.
- 8.54 Assessment conclude that subject to mitigation, the development will not result in unacceptable impacts on the residential amenity of the occupants of the existing and approved dwellings neighbouring the development.
- 8.55 The proposed development has the potential to result in some adverse impacts upon residential amenity of the surrounding areas during the construction period. Planning conditions are proposed to limit the hours of construction and secures controls through the Construction Management Plan.
- 8.56 An Air Quality Assessment has been prepared in support of the Full Planning Application.
- 8.57 For the construction phase of the proposed development the Assessment concludes there is potential for dust soiling effects associated with fugitive emissions. Assuming good practice control measures are implemented, the residual effect associated with dust soiling during the Construction Phase is deemed to be not significant. It is concluded that relevant mitigations implemented as part of a conditioned Construction Management Plan would be sufficient in mitigating any perceived impact.
- 8.58 In relation to traffic generation the Assessment concludes that impacts on NO₂ and PM₁₀ concentrations at the worst case existing sensitive receptors, closest in proximity to roads affected by the highest development flows, were predicted to be not significant in accordance with IAQM guidance.
- 8.59 Cumberland Council – Environmental Health have confirmed support for the development subject to planning conditions to secure the retention of the acoustic barriers and adherence to the Construction Management Plan.

Flood Risk and Drainage

- 8.60 Policy DS6 seeks that development will not be permitted where: there is an unacceptable risk of flooding and or, the development would increase the risk of flooding elsewhere.
- 8.61 Policy DS7 requires that surface water is managed in accordance with the national drainage hierarchy and includes Sustainable Drainage Systems where appropriate.
- 8.62 A Flood Risk and Surface Water Drainage Assessment has been prepared in support of the Full Planning Application.

- 8.63 The Assessment identifies that that Application Site is located wholly within Flood Zone 1 (lowest risk of flooding). The proposed development is a less vulnerable use; therefore, the Sequential Test and Exception Test for flood risk are not applicable.
- 8.64 The proposed surface water drainage system will be restricted to a maximum discharge of 6.1 l/s. Filter Drains and an underground proprietary SPEL ESR unit will be utilised in the drainage system to provide treatment of surface water flows prior to discharge to Pow Beck. Attenuation will be provided within the Application Site in the form of an underground cellular storage tank.
- 8.65 The proposed drainage system has been designed to accommodate a 1 in 100 year +50% climate change storm event.
- 8.66 Foul water flows will discharge into the existing combined 800x600 brick egg sewer, located to the east of the proposed building.
- 8.67 The Environment Agency have raised no objections to the development.
- 8.68 Cumberland Council – LLFA have confirmed no objections to the surface water drainage strategy which is confirmed as a betterment over the existing drainage situation. It is confirmed that a details of measures to control surface water during construction have not been submitted. Request the imposition of a planning condition securing that the surface water drainage scheme be constructed, maintained and managed in accordance with the submitted details and a planning condition requiring the submission, approval and implementation of a Construction Surface Water Management Plan.
- 8.69 United Utilities have confirmed that the proposed drainage scheme is acceptable subject to the imposition of a planning condition requiring completion of the development in accordance with the submitted details and a planning condition requiring the submission, approval and implementation of a Sustainable Drainage Management and Maintenance Plan.
- 8.70 A critical public sewer crosses the Application Site. There is also an easement dated 31/03/2010 UU Ref: Z3292 which has restrictive covenants that must be adhered to.
- 8.71 United Utilities have confirmed that they will not permit building over the sewers. It is proposed to divert a public sewer to prevent the overbuild or encroachment. United Utilities have raised no objections to the development; however, have requested the imposition of a planning condition to afford appropriate protective measures, as a S185 diversion application for the amendments to the public sewers is progressed/agreed.

Ground Conditions

- 8.72 Policy DS6 and Policy DS10 includes provisions requiring that development addresses land contamination and land stability issues with appropriate remediation measures.

- 8.73 A Phase II Geo-Environmental Appraisal and Coal Mining Risk Assessment have been prepared in support of the Full Planning Application. These provide an overview of the current ground conditions.
- 8.74 No concentrations of potential site-contaminants were identified as exceeding current assessment criteria, based upon a commercial end-use. Materials present at the Application Site are considered suitable for continued use within a commercial setting without representing a potential risk to human health. Given the very-low levels of potential contaminants recorded, no significant risk was considered to controlled waters (i.e. underlying aquifers and surface water features).
- 8.75 Rotary investigation works have identified an intact and banded coal seam from depths of between 18.50m and 25.90m (4.00m to 14.8m below rockhead level). This is ranging in thickness between 2.00m to 3.20m and is considered to be attributable to the Bannock Band Coal Seam. As a precautionary measure it is recommended that an allowance be included for localised probing and grouting (if required) across to building footprint on a typical minimum 6m centre grid to more accurately assess the level of risk in this regard.
- 8.76 The Coal Authority have agreed the conclusions of the Geo-environmental Appraisal and Coal Mining Risk Assessment. It is recommended that a pre-commencement planning condition is imposed to secure the completion of further intrusive investigations and a pre-occupation planning condition requiring the submission of a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development.
- 8.77 Cumberland Council – Environmental Health have confirmed no objection subject to the imposition of a planning condition controlling any unexpected land contamination.
- 8.78 The Environment Agency have raised no objections to the development.

Biodiversity and Ecology

- 8.79 Policy N1 seeks to ensure that new development will protect and enhance biodiversity and geodiversity and defines a mitigation hierarchy.
- 8.80 Policy N3 requires that all development, with the exception of that listed in the Environment Act must provide a minimum of 10% biodiversity net gain over and above existing site levels, following the application of the mitigation hierarchy set out in Policy N1. This is in addition to any compensatory habitat provided under Policy N1. It is stated net gain should be delivered on site where possible and where on-site provision is not appropriate, provision must be made elsewhere in accordance with a defined order of preference.

- 8.81 A Preliminary Ecological Appraisal and a Biodiversity Net Gain Assessment has been prepared in support of the Full Planning Application.
- 8.82 The Ecological Appraisal identifies three main habitat land categories on the Application Site, roughly split into an artificially unsealed car park to the north and willow scrub to the south. A small area of woodland is present to the east.
- 8.83 It is identified that the Application Site has potential to support roosting, foraging, and nesting birds, including amber and red-listed species. Bats will likely commute through the Application Site, although no roosting opportunities are available. Small mammals including hedgehogs may utilise the Application Site for cover and foraging and it is possible that common invertebrates will make use of clearings and vegetation within the willow scrub.
- 8.84 The Appraisal does not identify any licensable activities. It is recommended that breeding bird surveys take place across the willow scrub of site to fully assess its importance to birds within the local area; however, as a less desirable alternative, willow scrub could be replaced elsewhere locally.
- 8.85 The Applicant instructed the completion of a breeding bird survey; however, when the Application Site was visited in March to carry out the first survey it had been largely cleared. It was therefore recommended that no further surveys would be necessary, as the suitable habitat was not present. The recommendation was that appropriate replacement of this habitat be secured as part of the required biodiversity net gain. The Ecologist has confirmed that an existing 0.25ha area of scrub could potentially be enhanced from poor to good; a 0.21ha area of modified grassland could be enhanced or a 0.16ha area of gravel or other unsealed surface could be enhanced to mitigate the impacts of the development.
- 8.86 The Appraisal recommends a range of mitigation works. This includes that the work take place outside of the main nesting bird season (March – August inclusive) and should it be necessary for works to be carried out during this period, then a site visit by an appropriately qualified ecologist will be necessary to ensure no nesting birds will be impacted by works. Other mitigation is proposed including methods for the protection of hedgehogs during maintenance and safe storage of harmful materials. It is recommended that the proposed site includes linear features to support continued commuting by bats. This could include a native hedgerow or a line of trees.
- 8.87 The Appraisal identifies that there are seven statutory sites within 2km of the Application Site, the closest of which is Castle Park Wood at 562m north-east of the Application Site. The sites are designated due to their plant and animal assemblages, as well as for geological value. It is concluded that it is unlikely that works to the Application Site will lead to a cumulative impact within the area, given the distance of Application Site from designated sites and the nature of works, which will be localised.

- 8.88 The Biodiversity Metrics calculation based on the pre-cleared habitat shows a baseline of 2.86 habitat units on the Application Site with no river or hedgerow units present within the Application Site. After proposals have been completed it will provide 1.85 habitat units, resulting in a biodiversity net gain of -35.13% (a loss). This is due to the loss of willow scrub and woodland with no suitable replacements. The trading rules are also not met.
- 8.89 The Applicant has confirmed that the required replacement/enhancement of the willow scrub and required a biodiversity net gain of 10% is not achievable on the Application Site. A planning condition is proposed to secure the required replacement/enhancement and biodiversity net gain and means to secure its management and monitoring for a minimum period of 30 years. This may include further landscaping and enhancement on the Application Site and/or enhancement of land located outside of the Application Site. The Applicant is progressing discussions to secure the land required to deliver. A Section 106 Agreement may be required to secure the delivery, management and monitoring of works outside of the Application Site and can be secured as part of the approval of the planning condition.

Arboriculture

- 8.90 An Arboricultural Impact Assessment and Arboricultural Method Statement have been prepared in support of the planning application.
- 8.91 All trees have been surveyed and categorised. 9no. individual trees were identified and 6no. groups. 5no. trees were classed as moderate (b) quality and 4no. classed as low (c) quality. All groups were considered low (c) quality.
- 8.92 Trees that conflict with the siting of the foodstore or car park and supporting infrastructure for the store's operation are proposed for removal. New trees are proposed to replace those lost due to the construction of the new foodstore. The constraints of the Application Site prevent the achievement of the desired 2:1 ratio for replacement.
- 8.93 Trees of significance are to be retained and protected throughout the construction period. Details of relevant protection works are outlined within the accompanying Arboricultural Method Statement.
- 8.94 The Councils Arboricultural Consultant recommends that planning conditions are imposed to secure completion of the development in accordance with the submitted Arboricultural Method Statement and the submission and approval of a Landscaping Plan giving details of the locations and specification for the proposed trees and shrubs and include a planting method statement and a five-year maintenance plan.
- 8.95 It is confirmed that Japanese Knotweed is present on the Application Site. The Applicant has confirmed that this is being actively managed and has been the subject of spraying in September 2022, 2023 and 2024 by Copeland Council/Cumberland Council.

Sustainability, Environmental Standards & Renewable Energy

- 8.96 The Applicant has confirmed that the development is to be designed with a fabric first approach. High efficiency air source heat pumps are proposed to meet the heating and cooling demands of the development, alongside LED lighting with absence/presence control to minimise the electrical energy demand of the development.
- 8.97 Photovoltaics are proposed to the roof of the to assist in meeting future energy demands.

9.0 The Planning Balance

- 9.1 The Application Site is located within the defined settlement boundary of the Principal Town of Whitehaven which is the primary focus for new development in the plan area including retail. This is given great weight.
- 9.2 The Application Site comprises part of Opportunity Site ref. OWH05. The proposed development comprises the erection of a Use Class E foodstore and therefore accords with the general principles of Strategic Policy E6. This is given great weight.
- 9.3 A Sequential Test has been completed and independently assessed. It has been concluded that there are no sequentially preferable development sites within Whitehaven Town Centre which could realistically accommodate the scale and form of the retail development proposed - even when demonstrating significant flexibility in terms of developable area. The requirements of Policy R7 are therefore met. This is given great weight.
- 9.4 A Retail Impact Assessment has been completed and independently assessed. This demonstrates that development would not lead to a significant adverse impact in respect of existing, committed and planned public and private sector investment and would not jeopardise any future planned improvements to the centre. In respect of the Retail Impact Assessment, it is concluded that the proposed development and the potential new food retailer in the vacated existing Aldi foodstore on Preston Street unit, either solus or cumulatively with the development proposed under application ref. 4/24/2044/0F1, would lead to a significant adverse impact on the vitality and viability of any defined centre. The requirements of Policy R8 are therefore met. This is given great weight.
- 9.5 The development will have a good level of connectivity and be accessible on foot, cycle, bus and train from local destinations. It has been demonstrated and assessed by Cumberland Council – Highways that the impact of the development on the local highway network including the junction capacities and traffic flows, the accessibility by active means and the technical specifications of the proposed access junction, development layout, parking provision and servicing area are acceptable. The development will deliver improvements to the local cycling and walking opportunities including improving visibility to NCN72 and the provisions of £50,000 towards the

provision of a parallel (walking and cycling) signal controlled crossing on Preston Street. A Travel Plan is secured to encourage active travel. The requirements of Policy CO2 and CO4 are therefore met. This is given great weight.

- 9.6 Given the existing characteristics, appearance and constraints of the Application Site, it is considered that in design terms, the development is acceptable in its context. This is given moderate weight.
- 9.7 The development will result in the loss of habitat supporting roosting, foraging, and nesting birds. The loss of this habitat and woodland and design of the development prevents delivery of a 10% biodiversity net gain on the Application Site. A pre-commencement planning condition is sought to secure a mitigation scheme of the identified impacts and to delivery of a 10% biodiversity net gain. This is given moderate weight.
- 9.8 The development would not result in unacceptable impacts in respect of residential amenity, land contamination and drainage subject to the imposition of planning conditions. This is given moderate weight.
- 9.9 In overall terms, the development is considered to be in conformity with the requirements of the development plan.

Recommendation

That the application is granted subject to the conditions outlined at the end of this report, with the Assistant Director of Inclusive Growth and Placemaking being given delegated authority to add to and/or make any amendments to the conditions as considered appropriate and further delegates to the Assistant Director of Inclusive Growth and Placemaking authority to agree the final terms and conditions of the section 106 agreement, which as detailed in this report are proposed as:

- A financial contribution of £6,600 for the review of the Travel Plan Monitoring reports; and,
- A financial contribution of £50,000 towards the delivery of a parallel signal controlled crossing on Preston Street.

If the section 106 agreement is not entered within 6 months of the date of this Planning Committee or any other extension of the determination period mutually agreed with the Applicant, delegate authority to the Assistant Director of Inclusive Growth and Placemaking to refuse the planning permission on the grounds that the planning obligations required to make the proposed development acceptable in planning terms have not been legally secured.

APPENDIX 1

List of Conditions and Reasons

Defining The Permission

1. The development hereby permitted shall begin not later than three years from the date of this decision.

Reason

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Design and Access Statement (Projekt Architects)
Preliminary Ecological Appraisal & Biodiversity Net Gain Report - Proposed Aldi, Whitehaven - Version 2 (Total Ecology)

Transport Assessment – Proposed Aldi Foodstore Relocation, Preston Street, Whitehaven - Project no: 48013 - (Andrew Moseley Associates)
Highways Technical Note - Proposed Aldi Foodstore Relocation, Preston Street, Whitehaven - 19th January 2024
Highways Technical Note - Proposed Aldi Foodstore Relocation, Preston Street, Whitehaven - 12th April 2024
Interim Travel Plan - Proposed Aldi Foodstore, Preston Street, Whitehaven – Project No.45031 - (Andrew Moseley Associates)

Noise Impact Assessment - Our Reference – J3242 Revision - 1 (NJD Environmental)
Air Quality Impact Assessment - Report Reference: NJD23-0140-002R – Final v2 - (NJD Environmental)
Aldi Stores Limited – Sustainability Statement – January 2023

Arboricultural Impact Assessment For Trees On Land Adjacent to Preston Street, Whitehaven (All About Trees)
Drawing No. AMS EXI – Existing Trees Shown On Existing Layout (All About Trees)
Drawing No. AIA TPP - Tree Protection Plan (All About Trees)
Arboricultural Method Statement For Trees On Land Adjacent to Preston Street, Whitehaven (All About Trees)
Drawing No. AMS TPP - Tree Protection Plan (All About Trees)

Archaeological Desk-Based Assessment - Proposed Aldi Preston Street Whitehaven - Report 6070

Phase 1 Geo-Environmental Assessment – Report Ref. P18-2351 Issue 1- (3E Consulting Engineers)
Preliminary Risk Assessment and Ground Investigation Report - Contract No. E12964/1B – Issue 1 - (DTS Raeburn)
Geo-environmental Appraisal & Coal Mining Risk Assessment – Report Ref. P18-351/GA Issue 1 - (3E Consulting Engineers)

Flood Risk Assessment and Drainage Strategy – Preston Street, Whitehaven - Document Ref: P18-351-HYD-XX-XX-RP-C-0500 - (Hydrock)

Drawing No. 0470-PA-XX-00-DR-A-PM_40_50-21-0001-S4-P01 - Location Plan (Projekt Architects)
Drawing No. 0470-PA-XX-00-DR-A-PM_40-50-21-0002-S4-P03 - Proposed Site Plan (Projekt Architects)
Drawing No. 0470-PA-XX-00-DR-A-PM_40-50-21-0003-S4-P02 - Proposed Floor Plan (Projekt Architects)
Drawing No. 0470-PA-XX-00-DR-A-PM_40-50-21-0003-S4-P01 - Proposed Roof Plan (Projekt Architects)
Drawing No. 0470-PA-XX-00-DR-A-PM_40-50-21-0005-S4-P02 - Proposed Elevations (Projekt Architects)
Drawing No. 0470-PA-XX-00-DR-A-PM_40-50-21-0006-S4-P01 - Proposed Site Plan - Constraints (Projekt Architects)
Drawing No. 0470-PA-XX-00-DR-A-PM_40-50-21-0007-S4-P01 - Proposed Site Section (Projekt Architects)

Reason

For the avoidance of doubt and in the interests of proper planning.

Pre-Commencement Planning Conditions

Highways

3. No development shall commence until details, including longitudinal/cross sections of the carriageway, footways, footpaths have been submitted to and approved in writing by the Local Planning Authority.

Any works so approved shall be constructed in accordance with the approved details before the development is complete.

Reason

To ensure a minimum standard of construction in the interests of highway safety in accordance with the provisions of Policy CO4 of the Copeland Local Plan 2021-2039.

4. No development shall commence until visibility splays providing clear visibility of 43 metres measured 2.4 metres down the centre of the access road and the nearside channel line of the carriageway edge have been provided at the junction of

the access road with the public highway as shown on: Drawing No. AMA/48013/SK001 - Visibility Splay Analysis.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splay which obstruct the visibility splays.

The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

Reason

In the interests of highway safety in accordance with the provisions of Policy CO4 of the Copeland Local Plan 2021-2039.

5. No development shall commence until full design details of a scheme for highway modifications to Preston Street have been submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of highway safety in accordance with the provisions of Policy CO4 of the Copeland Local Plan 2021-2039.

Archaeology

6. No development shall commence until the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority has been secured.

The written scheme of investigation must include the following components:

- i) An archaeological evaluation; and,
- ii) An archaeological recording programme the scope of which will be dependent upon the results of the evaluation.

Reason

To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the examination and recording of such remains in accordance with the provisions of Policy BE3 of the Copeland Local Plan 2021-2039.

Ground Conditions

7. No above ground development shall commence until:

- a) a scheme of further intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and,
- b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason

To ensure the safety and stability of the development, in accordance with the provisions of Policy DS8 of the Copeland Local Plan 2021-2039.

Construction Management

8. No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority.

The CEMP shall include:

- details of the means of access and parking for construction traffic and vehicles;
- procedures for the loading and unloading of plant and materials;
- hours of delivery;
- details of the storage of plant and materials used in construction;
- details of measures to control dust, emissions, sediments and pollutants arising from the development;
- a scheme for recycling/disposing of waste resulting from construction works; and,
- measures to control noise and vibration.

The approved CEMP shall be adhered to throughout the construction period.

Reason

To protect amenity and to protect the environment from pollution in accordance with Policy DS9 of the Copeland Local Plan 2021-2039.

9. No development shall commence until a Construction Surface Water Management Plan (CSWMP) has been submitted to and approved in writing by the Local Planning Authority.

The CSWMP shall include:

- details of measures to control surface water flows and prevent flooding during the construction period; and,

- measures to prevent the discharge of sediments and pollutants to the existing watercourses.

The approved CSWMP shall be adhered to throughout the construction period.

Reason

To safeguard against flooding to surrounding sites and to safeguard against pollution of surrounding watercourses and drainage systems in accordance with the provisions of Strategic Policy DS6, Policy DS7 and Policy DS8 of the Copeland Local Plan 2021-2039.

United Utilities Asset Protection

10. No development shall commencement until details of the means of ensuring the 600x800mm public combined sewer that is laid within the site boundary is protected from damage as a result of the development (including the proposed level changes and connections to this sewer) have been submitted to and approved by the Local Planning Authority.

The details shall outline the potential impacts from construction activities and the impacts post completion of the development on the public sewer that crosses the site and identify mitigation measures to protect and prevent any damage to the pipeline both during construction and post completion of the development.

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

Reason

To ensure protection of essential services and safeguard against flooding in accordance with the provisions of Policy DS4 of the Copeland Local Plan 2021-2039.

Landscaping

11. Notwithstanding the submitted details, no development shall commence until a detailed scheme of soft landscape works has been submitted to and approved in writing by the Local Planning Authority.

These shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers / densities; an implementation programme and a five-year maintenance plan.

The agreed scheme shall be carried out as approved to the agreed timetable.

Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted.

Reason

To safeguard and enhance the character of the area and secure high quality landscaping in accordance with the provisions of Policy DS5 of the Copeland Local Plan 2021-2039.

12. Prior to the commencement of development a Biodiversity Net Gain Strategy (BNGS) and a Project Implementation Plan (PIP) shall be submitted to and approved in writing by the Local Planning Authority.

The BNGS shall detail proposals to redress loss of biodiversity and the mitigation strategy proposed shall include all on and off-site habitats required to deliver a net gain of at least ten percent. The BNGS shall use the Statutory Biodiversity Metric Calculation Tool associated with the Environment Act 2021.

The PIP shall detail the delivery of ecological BNG mitigation and compensation, in accordance with the approved BNG strategy. The PIP shall include timescales for implementation, and an ongoing management and maintenance plan.

The BNGS and PIP shall be implemented, managed and maintained in accordance with the approved details.

Reason

To ensure delivery of the required biodiversity net gain in accordance with the provisions of Policy N3P of the Copeland Local Plan 2021-2039.

Pre-Occupation

Highways

13. Prior to the occupation of the development hereby approved the modifications to the public highway at Preston Street shall be completed in accordance with the approved details.

Reason

In the interests of highway safety in accordance with the provisions of Policy CO4 of the Copeland Local Plan 2021-2039.

14. Prior to the occupation of the development hereby approved, the approved access and parking requirements shall be constructed in accordance with the approved plans and details.

The access and or parking provision shall be retained and be capable of use when the development is completed and shall be retained for the lifetime of the development.

Reason

To ensure a minimum standard of access provision when the development is brought into use in accordance with the provisions of Policy CO4 of the Copeland Local Plan 2021-2039.

Ground Conditions

15. Prior to the occupation of the development hereby approved a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to and approved in writing by the Local Planning Authority.

This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason

To ensure the safety and stability of the development, in accordance with the provisions of Policy Policy DS8 of the Copeland Local Plan 2021-2039.

Drainage

16. Prior to occupation of the development hereby approved the approved scheme of foul and surface water drainage infrastructure shall be completed and brought into operational use.

Once completed and brought into operational use, the surface water drainage infrastructure shall be retained operational for the lifetime of the development.

Reason

To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development in accordance with the provisions of Strategic Policy DS6, Policy DS7 and Policy DS8 of the Copeland Local Plan 2021-2039.

Noise

17. Prior to the occupation of the development hereby approved the acoustic mitigation scheme detailed in Noise Impact Assessment for the Proposed New ALDI

Retail Store at Preston Street, Whitehaven Planning Application No 4/23/2314/0F1
Our Reference – J3242 Revision - 1 shall be implemented in full.

The mitigation measures shall be retained in good working condition for the lifetime of the development.

Reason

To protect amenity of nearby residential dwellings in accordance with the provisions of Policy DS4 of the Copeland Local Plan 2021-2039.

External Lighting and CCTV

18. No external lighting shall be installed unless or until a scheme of external lighting has first been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include details of the intensity of illumination and predicted lighting spill contours.

All external lighting shall be installed in accordance with the approved details and shall thereafter be retained as such for the lifetime of the development.

Reason

To protect residential amenity, to ensure high quality design and to protect the environment from light pollution in accordance with Policy DS4 of the Copeland Local Plan 2021-2039.

19. No external closed circuit television equipment shall be installed unless or until a scheme of closed circuit television equipment has first been submitted to and approved in writing by the Local Planning Authority.

All closed circuit television equipment shall be installed in accordance with the approved details and shall thereafter be retained as such for the lifetime of the development.

Reason

To protect residential amenity and ensure high quality design in accordance with Policy DS4 of the Copeland Local Plan 2021-2039.

Other Planning Conditions

Highways

20. Dropped kerbs shall be provided on each side of every junction to enable wheelchairs, pushchairs etc. to be safely manoeuvred at kerb lines.

Any works so approved shall be constructed in accordance with the approved details before the development is complete.

Reason

To ensure that pedestrians and people with impaired mobility can negotiate road junctions in relative safety in accordance with the provisions of Policy DS4 and Policy CO4 of the Copeland Local Plan 2021-2039.

21. Within 6 months of the development hereby permitted (or any part thereof) opening for business, a Final Travel Plan shall be submitted and approved in writing by the Local Planning Authority.

The Final Travel Plan shall identify the measures that will be undertaken by the developer/occupant to encourage the achievement of a modal shift away from the use of private cars to visit the development to sustainable transport modes.

The measures identified in the Final Travel Plan shall be implemented by the developer/occupant within 12 months of the development (or any part thereof) opening for business.

Reason

To aid in the delivery of sustainable transport objectives in accordance with the provisions of CO5 of the Copeland Local Plan 2021-2039.

22. The developer/occupant shall submit to the Local Planning Authority for review the following as defined in the Interim Travel Plan - Proposed Aldi Foodstore, Preson Street, Whitehaven:

- i. The survey of staff completed one month before relocation from the existing store to establish existing travel patterns;
- ii. The follow up travel survey to be undertaken 6 months post relocation from the existing store to establish how, if at all, travel patterns have changed; and,
- iii. Four subsequent annual reviews of the Final Travel Plan.

The annual review of the Final Travel Plan shall review the effectiveness of the Travel Plan and include any necessary amendments or measures.

Reason

To aid in the delivery of sustainable transport objectives in accordance with the provisions of CO5 of the Copeland Local Plan 2021-2039.

Archaeology

23. Where significant archaeological remains are revealed by the approved programme of archaeological work, there shall be carried out within one year of the completion of that programme on site, or within such timescale as otherwise agreed in writing by the Local Planning Authority: an archaeological post-excavation assessment and analysis, the preparation of a site archive ready for deposition at a store, the completion of an archive report, and the preparation and submission of a report of the results for publication in a suitable specialist journal.

Reason

To ensure that a permanent and publicly accessible record is made of the archaeological remains that have been disturbed by the development in accordance with the provisions of Policy BE3 of the Copeland Local Plan 2021-2039.

Ground Conditions

24. 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 in writing within 14 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination, development must be halted on that part of the site.

An assessment must be undertaken and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority.

Reason

To prevent harm to human health and the environment in accordance with the provisions of Policy DS8 of the Copeland Local Plan 2021-2039.

Construction Management

25. No work for the construction of these developments, including demolition, shall take place on the site, except between the hours:

07:30 - 18.00 Monday to Friday; and

08.00 - 13.00 on Saturdays.

No work should be carried out on Sundays or officially recognised public holidays.

Reason

To safeguard the amenity of neighbouring occupiers in accordance with the provisions of Policy DS4 of the Copeland Local Plan 2021-2039.

Arboriculture

26. Arboricultural Method Statement For Trees On Land Adjacent To Preston Street, Whitehaven shall be implemented as approved for the duration of the construction period.

Reason

To ensure the protection and retention of important landscape features in accordance with the provisions of Policy DS5 of the Copeland Local Plan 2021-2039.

Ecology

27. The development here by approved shall not proceed except in accordance with the recommendations outlined in Preliminary Ecological Appraisal & Biodiversity Net Gain Report Proposed Aldi, Whitehaven Avison Young & Aldi October 2023.

Reason

For the avoidance of doubt and to prevent harm to biodiversity in accordance with the provisions of Policy ENV3 of the Copeland Local Plan 2021-2039.

Drainage

28. Drainage of the development hereby approved shall be constructed, maintained and managed in accordance with the details outlined in Flood Risk and Drainage Assessment - Ref P18-351-HYD-XX-XXRP-C-0500 Issue P02.

For the avoidance of doubt no surface water will be permitted to drain directly or indirectly into the public sewer.

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 in accordance with the provisions of Strategic Policy DS6, Policy DS7 and Policy DS8 of the Copeland Local Plan 2021-2039.

Operating Limitations

29. The net retail floorspace of the development hereby approved shall not exceed 1,150 square metres.

Reason

In order to control the precise nature and scale of the retail use and to prevent a significant adverse impact on the vitality and viability of any defined centre in

accordance with the provisions of Strategic Policy R1 and Policy R8 of the Copeland Local Plan 2021-2039.

30. Not more than 20% of the net retail floorspace of the development hereby approved shall be used for the sale of comparison goods.

Reason

In order to control the precise nature and scale of the retail use and to prevent a significant adverse impact on the vitality and viability of any defined centre in accordance with the provisions of Strategic Policy R1 and Policy R8 of the Copeland Local Plan 2021-2039.

31. No additional floorspace shall be created through the use of mezzanines or other structures to increase the amount of usable floor area of the development hereby approved.

Reason

In order to control the precise nature and scale of the retail use and to prevent a significant adverse impact on the vitality and viability of any defined centre in accordance with the provisions of Strategic Policy R1 and Policy R8 of the Copeland Local Plan 2021-2039.

32. The approved store shall not be open for trade except between:
- 08:00 hours to 23:00 hours – Mondays to Saturdays; and
- 09:00 hours to 18:00 hours – Sundays

Reason

To safeguard the amenity of neighbouring occupiers in accordance with the provisions of Policy DS4 of the Copeland Local Plan 2021-2039.

33. The retail store hereby permitted shall be used for the sale of food and ancillary comparison goods, and for no other purpose including any other purpose in Class E1(a) of the Schedule to the Town and County Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason

In order to control the precise nature and scale of the retail use and to prevent a significant adverse impact on the vitality and viability of any defined centre in accordance with the provisions of Strategic Policy R1 and Policy R8 of the Copeland Local Plan 2021-2039.

Informative Notes

1 - Ground Investigations and groundworks Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property.

2 - Shallow coal seams In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.

3 - Any works within or near the Highway must be authorised by the Council and no works shall be permitted or carried out on any part of the Highway including Verges, until you are in receipt of an appropriate permit from the LHA Streetworks team. <https://www.cumberland.gov.uk/parking-roads-and-transport/streets-roads-and-pavements/street-licences-and-permits/street-permit-and-licence-fees-and-charges>

4 - Please be advised that the Highway outside and or adjacent to the proposal must be kept clear and accessible at all times.

Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.