

# Retail Statement

Former Central Cars, Lillyhall,  
Distington



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Appendix 1: Sequential Site Assessment

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## 1. Introduction

### Purpose of Statement

- 1.1 This Retail Statement has been prepared to accompany a full planning application for a change of use of land and buildings from vehicle showroom and workshop (*sui generis*) to a Use Class E(a) bulky goods retail unit at former Central Cars, Lillyhall Industrial Estate, Distington.
- 1.2 The proposals involve the provision of new retail floorspace beyond a designated centre and the purpose of this statement is to assess the proposals against the two key tests applied to such forms of development – the sequential and impact tests.

### Structure of Statement

- 1.3 This Retail Statement is structured as follows:
- 1.4 Section 2 provides a brief description of the site and the proposed development.
- 1.5 Section 3 outlines the relevant planning policy framework in relation to main town centre uses.
- 1.6 Section 4 provides a sequential assessment.
- 1.7 Section 5 considers any relevant retail impact considerations.

1.8 Section 6 draws conclusions on the overall findings of the statement.

## 2. Site Context

### Site Context

2.1 The application site comprises of the former Central Cars vehicle showroom and workshop located to the south east of the A595 / A597 to the north eastern edge of the village of Distington. The site lies approximately 9.7km and

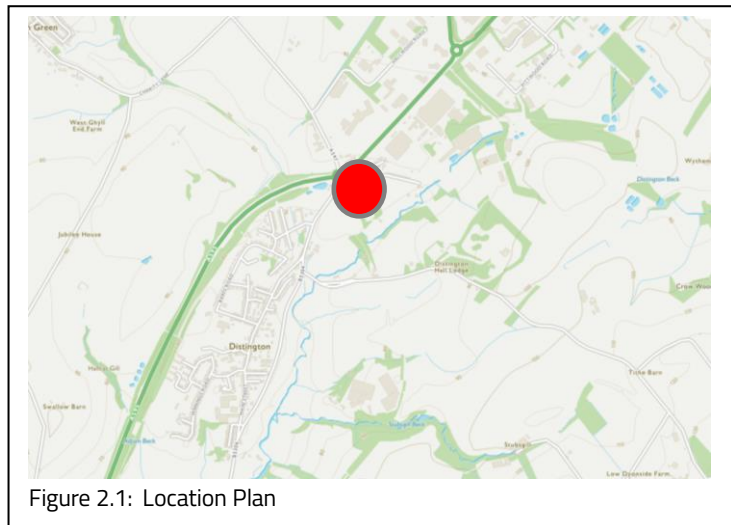


Figure 2.1: Location Plan

4.8km from the main towns of Whitehaven and Workington respectively.

2.2 The site is occupied by a single storey steel frame building clad with profile metal sheeting with a total gross floor area of 553 sq.m. The existing building is sited centrally within the site with concrete forecourt and yard areas to the front, sides and rear of the building. The land extends beyond the current hardstanding to the rear and is currently overgrown with vegetation.

2.3 The site is within an established commercial area at Lilyhall, which accommodates a range of industrial and business units, as well as car showrooms, Lakes College, National College for Nuclear and a recently completed EuroGarages petrol filling station and associated food and beverage outlets.

## Planning History

- 2.4 There is no planning history associated with the site that is considered of relevance to the current proposals.

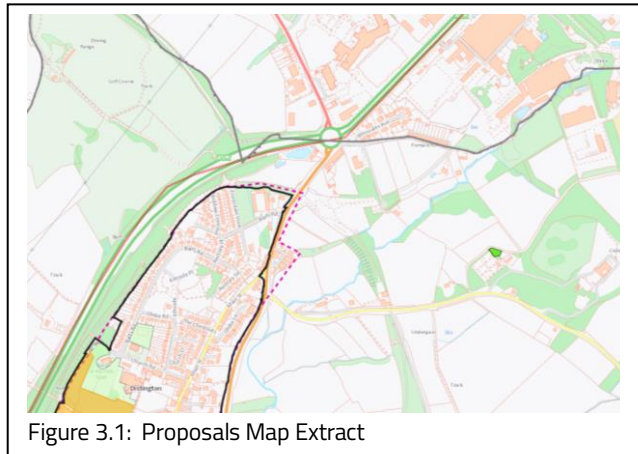
### 3. Planning Policy Framework

- 3.1 This section of the report outlines the retail-based policies of the adopted Development Plan and NPPF of relevance to the consideration of the current application proposals.

#### Development Plan

##### Copeland Local Plan 2013-2028 Core Strategy & Development Management Policies

- 3.2 The application site lies beyond the defined settlement boundary of Distington but is not subject to any specific land use or environmental designations, as shown on the adjacent extract from the adjacent extract from the adopted Proposals Map.



- 3.3 The current application proposals relate to the provision of new retail floorspace beyond the boundary of a designated centre and the site is classed as out-of-centre in retail policy terms.
- 3.4 Policy ER7 of the adopted Local Plan aims to maintain a hierarchy of interconnected, vibrant and inclusive Principal Town and Key Service Centres that are mixed-use hubs for retail commercial, leisure, civic and housing provision. The policy confirms that key development objectives are to reinforce the role of Whitehaven as the Principal Town, as well as supporting

its role as a tourist and visitor destination; protect and enhance services and facilities within Key Service Centres; and seek to ensure that Local Centres and neighbourhood centres maintain essential shops and services to meet the needs of local communities.

- 3.5 The supporting text to Policy ER7 (Paragraph 4.8.4) acknowledges that there will be proposals for development of retail and other town centre uses not in an existing centre and that such applications will be dealt with in accordance with national planning policy.

## Material Considerations

### National Planning Policy Framework (NPPF)

- 3.6 The revised NPPF was published in February 2019 and sets out the Government's planning policies for England and how these should be applied. The NPPF must be taken into account in preparing Development Plans and is a material consideration in planning decisions.
- 3.7 Paragraph 85 of the NPPF confirms that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. The NPPF therefore goes onto set out two key policy tests that should be applied when planning for town centre uses that are not in an existing centre and which are not in accordance with an up-to-date Local Plan – the sequential and impact test. The sequential test should be considered first as this may identify that there are preferable sites in town centres for accommodating main town centre uses and therefore negate any requirement to undertake the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres but only applies above defined



floorspace thresholds and is not applicable in this case given the limited scale of the proposed retail unit.

## 4. Sequential Assessment

- 4.1 The current application proposals involve the provision of a Class E(a) bulky goods retail unit, which is classed as a main town centre use as defined at Annex 2 of the NPPF. The site occupies an out-of-centre location and it will therefore be necessary to carry out a sequential test to establish whether there are preferable sites within or to the edge of nearby centres capable of accommodating the proposed development in line with guidance contained within the NPPF.
- 4.2 Paragraph 86 of the NPPF confirms that LPAs should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date Local Plan. Main town centre uses should be located in town centres, then in edge-of-centre locations and only if suitable sites are not available (or expected to become available within a reasonable period) should out-of-centre sites be considered. When considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites that are well-connected to the town centre. It is also suggested that applicants and LPAs should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge-of-centre sites are fully explored.

### Application of the Sequential Test

- 4.3 Planning Practice Guidance confirms that it is for the applicant to demonstrate compliance with the sequential test and there have been a number of Court judgements and Secretary

of State (SoS) / appeal decisions since the publication of the original NPPF in March 2012 that have provided clarification of the application of the sequential test.

- 4.4 Key case law in terms of to what extent an alternative site is considered suitable is provided by the *Tesco Stores Limited v Dundee City Council [2012] UKSC13* judgement. The judgement established that for a site to be considered suitable for the purposes of the sequential test, it must meet the commercial requirements of the development. In respect of the size of an alternative, provided that applicant has demonstrated the requisite flexibility, the question is:

*'...whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit the alternative site.'*

(Paragraph 29)

- 4.5 Paragraph 38 of the Dundee judgement considers the issue of suitability as follows:

*'...the issue of suitability is directed to the developer's proposals, not some alternative scheme which may be suggested by the planning authority. I do not think that this is in the least surprising, as developments of this kind are generated by the developer's assessment of the market he seeks to serve. If they do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism to which Lord Reed refers in para 28 above, they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest in doing so.'*

(Paragraph 38)

- 4.6 The subsequent Rushden Lakes SoS decision (APP/G2815/V/12/2190175) relating to a retail-led mixed use development at land adjacent to Skew Bridge Ski Slope, Northampton

Road, Rushden acknowledged that the *Dundee* judgement is of ‘*seminal importance*’ and is clear that, if a site is not suitable for the commercial requirements of the developer in question then it is not a suitable site for the purposes of the sequential approach; and that, in terms of the size of the alternative site, provided that the applicant has demonstrated flexibility with regards to format and scale, the question is whether the alternative site is suitable for the proposed development, not whether the proposed development could be altered or reduced so that it can be made to fit the alternative site. The Rushden Lakes decision also recognised that there is no suggestion within Paragraph 24 of the NPPF that the sequential test means to refer to anything other than the application proposal.

- 4.7 The subsequent *Aldergate Properties Ltd v Mansfield District Council* [2016] judgement provides further clarification on the meaning of ‘*suitable*’ and ‘*available*’ for the purposes of applying the sequential test:

*‘...it was held that “suitable” and “available” generally mean “suitable” and “available” for the broad type of development which is proposed in the application by approximate size, type and range of goods. This incorporates the requirement for flexibility in NPPF paragraph 24, and excludes, generally, the identity and personal or corporate attitudes of an individual retailer. The area and sites covered by the sequential test search should not vary from applicant to applicant according to their identity, but from application to application based on their content.’*

- 4.8 In terms of availability, Paragraph 8.55 of the Rushden Lakes Inspector’s Report states ‘*NPPF [24] simply asks whether town centre or edge of centre sites are “available.” It does not ask whether such sites are likely to become available during the remainder of the plan period or over a period of some years.*’ However, the revised version of the NPPF has included a requirement for sites that are expected to become available within a reasonable period to be considered in undertaking the sequential test.

- 4.9 On this basis, under the provisions of the revised NPPF, a site needs to be available at the current time or expected to become available within a reasonable period, although no definition of a '*reasonable period*' is given.
- 4.10 The aforementioned court judgements, SoS and appeal decisions provide clarity on the application of the sequential test and the key points can be summarised as follows:
- If a site is not suitable for the commercial requirements of the developer in question then it is not a suitable size for the purposes of the sequential approach;
  - Provided the developer has demonstrated flexibility with regard to format and scale, the question is whether the alternative site is suitable for the proposed development, not whether the proposed development could be altered or reduced so that it can be made to fit the alternative site;
  - '*Suitable*' and '*available*' generally mean '*suitable*' and '*available*' for the broad type of development which is proposed in the application by approximate size, type and range of goods;
  - The area and site covered by the sequential test search should not vary from applicant to applicant according to their identity, but from application to application based on their content (i.e. the identity and corporate attitudes of an individual retailer are excluded);
  - A site needs to be available at the current time or expected to become available within a reasonable period.

## Developer Requirements

- 4.11 On the basis of established case law, the correct application of the sequential test relates to the development proposed and, in order to be considered suitable, any alternative available sites must meet the specific commercial requirements of the developer subject to the requisite flexibility in format and scale.
- 4.12 The current proposals relate to the conversion of the former Central Cars premises to provide a Class E(a) bulky goods retail unit to be occupied by Peter Tyson appliances. The company was established in 1966 and currently operate branches in Carlisle, Newcastle-upon-Tyne and Workington and the property subject to the current application has been identified as an ideal location to expand their operations. The retailer specialises in the sale of high quality, bulky electronic domestic appliances, including refrigerators, freezers, cooking appliances, dishwashers, washing machines, tumble dryers, televisions, as well as other smaller appliances. The proposed unit will include a customer showroom for in-store purchases, however, the company also has a well-established on-line presence, which is seeing continued growth and the unit will also therefore be utilised for the storage and distribution of appliances to fulfil on-line orders. Having regard to the above, the key criteria that an alternative property must fulfil in order to meet the commercial requirements of the applicant are as follows:
- Gross floorspace of at least 500 sq.m across a single floor;
  - Modern, flexible retail floorspace that can accommodate large, bulky goods in a flexible manner;
  - Extensive display and storage space;
  - Adjacent, level car parking to enable easy transportation of bulky goods away from the store;

- A servicing area capable of accommodating HGVs which allow for the delivery of goods directly into the unit and to fulfil delivery of on-line orders;
- Excellent connectivity to strategic road network.

## Area of Search

4.13 With regard to the area of search to be applied in undertaking the sequential test, previous case law has established that the scope of the sequential assessment should be limited to locations that may serve the intended catchment. For the purposes of the sequential assessment, a 10-minute inbound drive time has been defined for the area of search, as shown in Figure 4.1, which is considered to be entirely appropriate for a unit of this scale, nature and format.

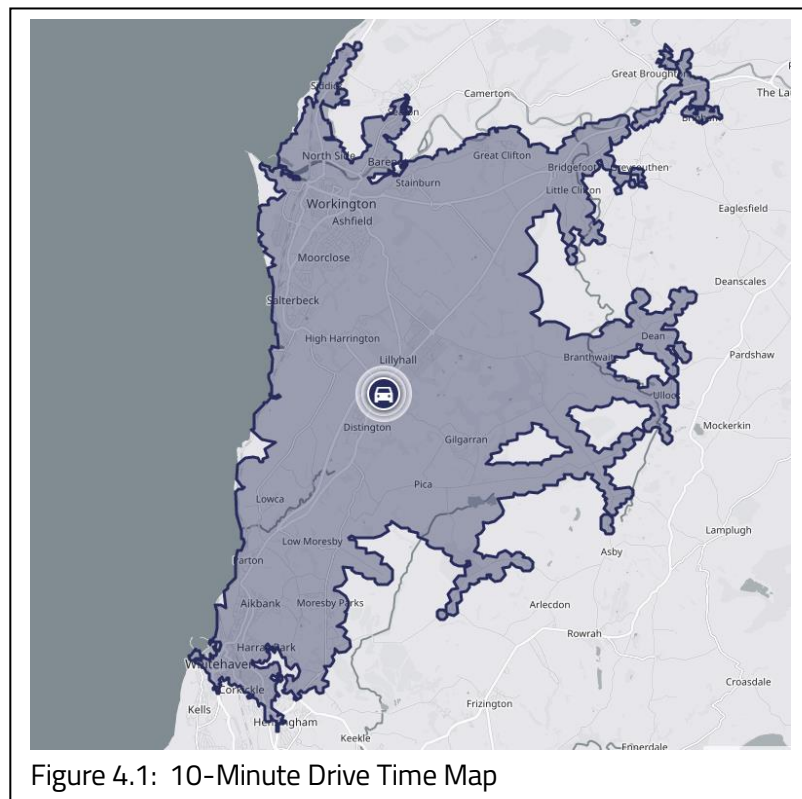


Figure 4.1: 10-Minute Drive Time Map

- 4.14 The only designated centres within the defined catchment area are the main town centres of Workington and Whitehaven.

### Sequential Assessment

- 4.15 ELG Planning have utilised a range of sources the following sources (e.g. LPA Commercial Property Databases; Local & National Commercial Property Agents etc.) to identify potential alternative premises capable of accommodating the proposed bulky goods retail floorspace within in-centre and edge-of-centre locations with the defined area of search.
- 4.16 The application premises have a GIA of 553 sq.m, however, in order to demonstrate the requisite flexibility, the sequential search considers premises of between 500 - 636 sq.m, which represents the lower limit of floorspace that the applicant could occupy and 15% above the level of floorspace proposed available under a freehold tenure. Appendix 1 includes an assessment of available premises across the Borough of sufficient size to accommodate the proposed bulky goods retail floorspace, however, it is clear that the identified properties are either entirely unsuitable or not sequentially preferable to the current application premises. It is acknowledged that there are other vacant premises within and to the edge of both Whitehaven and Workington Town Centre, however, none of these units provide the level of floorspace required to meet the commercial requirements of the applicant (i.e. over 500 sq.m). On this basis, it is evident that there are no suitable or available sequentially superior sites capable of accommodating the proposed retail floorspace and, as such, the sequential test is passed.
- 4.17 It is however acknowledged that the sequential site assessment has been undertaken based upon the specific locational requirements of the identified bulky goods retailer, although it is acknowledged that, without appropriate controls in place, the premises could potentially be



occupied by an alternative retailer which does not necessarily have the same locational requirements and would be capable of operating from a town centre unit. The applicant is therefore willing to accept the following condition on any subsequent planning approval to restrict the sale of goods from the unit to bulky items only:

*Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) and the provisions of the Town & Country Planning (Use Classes) Order 1987 (as amended) the retail unit hereby approved shall not exceed 553 sq.m gross internal floorspace and shall not be used for the sale of any goods other than those within the following categories:*

- i. Electrical goods and other domestic appliances;*
- ii. Furniture, wall and floor coverings;*
- iii. DIY products, materials, tools and machinery for the repair, maintenance or improvement of the home, the garden and motor vehicles;*
- iv. Motor and cycle goods; and*
- v. Bedding, soft furnishing and textiles*

## 5. Retail Impact Considerations

- 5.1 Paragraph 89 of the NPPF states that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq.m of gross floorspace).
- 5.2 There is currently no adopted locally set threshold within Copeland and, as such, the national default threshold of 2,500 sq.m is engaged. The current application proposals relate to the provision of 553 sq.m of new Class E retail floorspace, which is significantly below the national threshold of 2,500 sq.m. On this basis, there is no requirement to undertake an impact assessment in relation to the proposed development in view of the guidance contained at Paragraph 89 of the NPPF and such matters would not form a reasonable basis for withholding planning permission in this context.
- 5.3 Notwithstanding this, Workington is the highest ranking town centre within West Cumbria and Whitehaven is the Principal Town Centre within Copeland and both centres accommodate a wide range of retail and other town centre services and facilities, evening economy uses and administrative functions reflective of their role and function at the top of the West Cumbria retail hierarchy. The application proposals relate to the provision of a bulky goods retail unit and retailers selling the range of goods that could be sold from the proposed unit under the restrictions of the suggested planning condition only comprise a relatively limited proportion of the wider retail offer of the respective town centres. On this basis, it is not considered that the proposed bulky goods retail unit would compete to a material degree with the existing offer of either town centre and, consequently, would not have a material

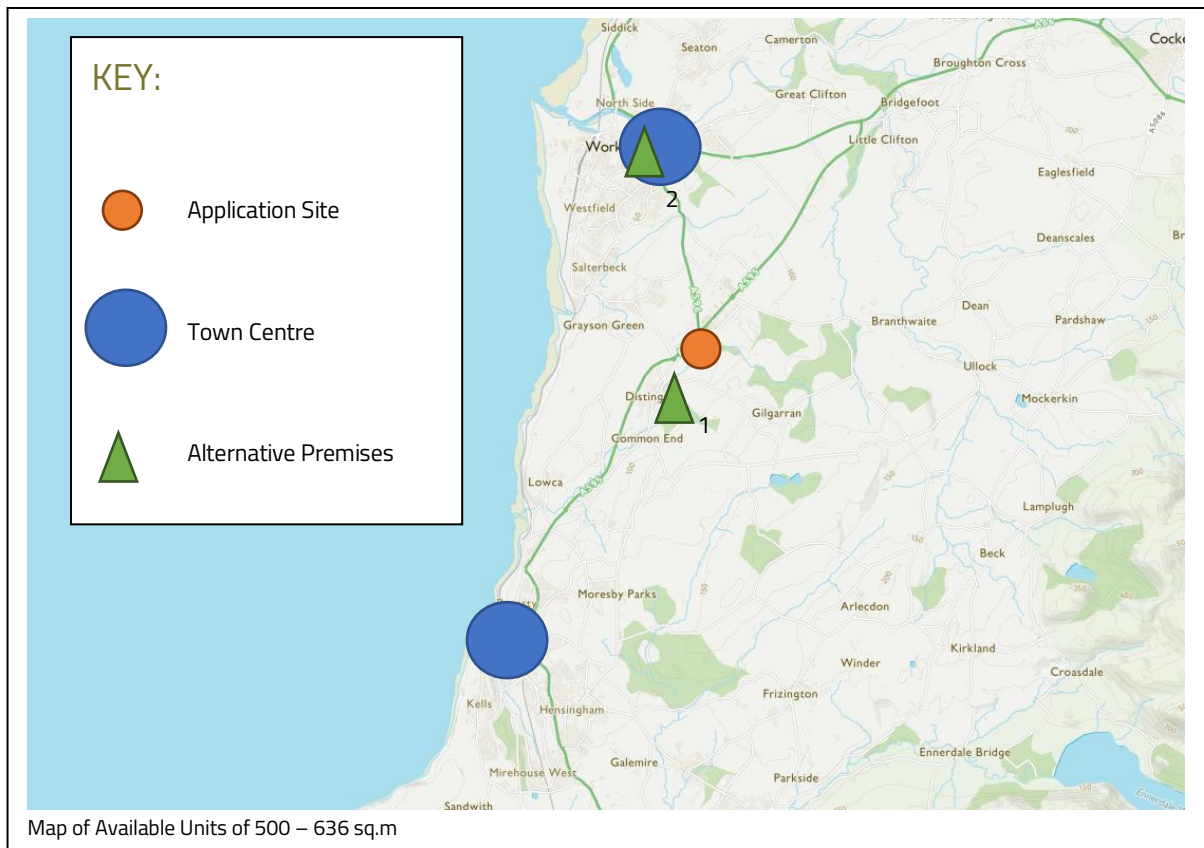
impact on the performance of Workington or Whitehaven town centre, although, as outlined above, such matters would not form a reasonable basis for withholding planning permission in any event in view of the level of floorspace proposed having regard to guidance contained at Paragraph 89 of the NPPF.

## 6. Conclusions

- 6.1 This Retail Statement has been prepared in relation to the proposals for the change of use from vehicle showroom and workshop (*sui generis*) to a Use Class E(a) bulky goods retail unit at former Central Cars, Lillyhall Industrial Estate, Distington.
- 6.2 The Retail Statement has sought to assess the proposals against the two key tests applied to such forms of development – the sequential and impact tests. It has been clearly demonstrated that there are no suitable and available sequentially preferable premises capable of accommodating the proposed bulky goods retail floorspace and, whilst there is no policy requirement to consider retail impact in view of the level of floorspace proposed, it is nonetheless wholly apparent that the proposals will not give rise to unacceptable impacts on the vitality and viability of nearby centres.
- 6.3 In light of the findings of this statement, it is therefore wholly evident that there are no justifiable retail policy grounds upon which to withhold planning permission.


## Appendix 1:

# Sequential Site Assessment



### 1. Old Prospect Works, Main Street, Distington

Gross Floor Area	549
Locational Status	Out-of-Centre
Unit Photograph	
Availability	The property is currently being advertised to let and is therefore available.
Suitability	The premises comprise of a former workshop and ancillary offices with a gross floor area of 549 sq.m and are therefore of sufficient size to accommodate the proposed use. The unit also benefits from adequate

	car parking and servicing areas and is also relatively well-related to the strategic highway network, although does not perform as well in this regard as the premises subject to the current application.
Conclusions	Whilst the unit is currently available and could also potentially be deemed suitable to accommodate the proposed retail floorspace, it occupies an out-of-centre location and is not therefore sequentially preferable to the application site.
<b>2. 33-41 Oxford Street, Workington</b>	
Gross Floor Area	523
Locational Status	In-Centre
Unit Photograph	
Availability	The property comprises of the former Lister's Baby Shop at 33-41 Oxford Street within Workington Town Centre and is currently being advertised To Let by Walton Goodland. The property is therefore available.
Suitability	The property lies within Workington Town Centre and provides a total of 523 sq.m gross floorspace. However, in view of the bulky nature of goods for sale and the need for sufficient warehousing to fulfil on-line orders, the applicant requires no less than 500 sq.m of floorspace across a single level to accommodate the sales and warehousing floorspace. The former Lister's Baby Shop unit accommodates 157 sq.m at first floor level, which equates to 30% of the total floorspace of the unit and, as such, would evidently not meet the applicant's requirements in this regard. Moreover, the unit does not benefit from satisfactory car parking or servicing arrangements and would not provide sufficient warehousing space. The identified premises are therefore entirely unsuitable to meet the applicant's requirements

**Conclusions**

The property occupies an out-of-centre location and is not therefore sequentially preferable to the application site. The unit also provides a level of floorspace that is above the appellant's requirement.

### Other Identified Town Centre Units Providing Insufficient Floorspace to Meet the Applicant's Commercial Requirements (i.e. Less than 500 sq.m)

Property	Floorspace
<b>Whitehaven Town Centre</b>	
27 King Street	448 sq.m
7-8 Lowther Street	430 sq.m
Union Hall, Scotch Street	446 sq.m
52 Roper Street	32 sq.m
123 Queen Street	60 sq.m
16 Market Place	77 sq.m
17 King Street	80 sq.m
8 King Street	241 sq.m
66 King Street	390 sq.m
68 King Street	321 sq.m
Unit 3, Lowther Buildings	96 sq.m
44 Roper Street	25 sq.m
62 Lowther Street	80 sq.m
5 Roper Street	59 sq.m
8 Roper Street	46 sq.m
<b>Workington Town Centre</b>	
Unit S12, Risman Place	408 sq.m
Unit S5A, Steelmans Walk	142 sq.m
54/56 Pow Street	216 sq.m
Former Officer's Club, Murray Road	246 sq.m
17 Murray Road	193 sq.m