



## Appeal Decision

Hearing Held on 24 September 2019

Site visit made on 24 September 2019

**by Graeme Robbie BA(Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 7 January 2020**

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**Appeal Ref: APP/G0908/W/18/3218594**

**land at Low Road, Low Road, Cockermouth CA13 0HH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
  - The appeal is made by Opus Land North (Cockermouth) Ltd against the decision of Allerdale Borough Council.
  - The application Ref 2/2018/0070, dated 8 February 2018, was refused by notice dated 25 July 2018.
  - The development proposed is erection of non-food retail unit (Class A1) with external garden centre, employment unit (Class B1, B2, B8), access, customer car parking, landscaping and associated works.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in the form of a 'hybrid' application; part application in outline and part application in full. The outline element of the application concerned the proposed employment unit, with details of its appearance reserved for subsequent consideration<sup>1</sup>. The proposed non-food retail unit and matters relating to access, parking, landscaping and associated works are matters of detail to be considered at this stage. I have determined the appeal accordingly.
3. The appellant submitted a planning obligation by way of a Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended). The UU obliges the appellant to submit an Employment Unit Land Marketing Strategy (EULMS) prior to the commencement of development on any part of the appeal site. The UU sets out the requirements of the EULMS, a time period for the Council to respond to the EULMS and obliges the submission of a reserved matters application in relation to the proposed employment unit. I shall consider this matter below.
4. At the hearing I was provided with an update on the status of the emerging Allerdale Local Plan (Part 2) Site Allocations document (ALLP2), for which hearings sessions had been held in relation to proposed main modifications. The Inspector's report into these sessions, was provided to the hearing. I have noted the Inspector's comments regarding the ALLP2, and in particular the comments regarding employment policies SA34 and SA35 and their conflict

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<sup>1</sup> Access, landscaping, layout and scale to be considered as matters of detail at this stage.

with National Policy and Allerdale Local Plan (ALP) policy DM3 and I accord limited weight to the provisions of ALLP2 as a consequence.

### **Application for costs**

5. At the Hearing an application for costs was made by Opus Land North (Cockermouth) Ltd against Allerdale Borough Council. This application is the subject of a separate Decision.

### **Main Issues**

6. The main issues are the effects:
  - The proposed development, and particularly the loss of trees within the appeal site, on the character and appearance of the appeal site and the surrounding area; and
  - Whether or not, with regard to the development plan and any material considerations, the appeal site is an appropriate location for the proposed development, with particular regard to the supply of employment land.

### **Reasons**

#### *Character and appearance*

7. The appeal site is located towards the western edge of Cockermouth, on the southern banks of the River Derwent. The site, a long and narrow piece of land the line of a former railway, is comprised of two distinct elements; the wider eastern portion of the site adjacent to the 'Lakes Home Centre' (LHC) and the narrower and more heavily wooded western portion of the site. The former being largely flat and substantially surfaced with the overgrown remnants of a concrete hardstanding slab and the latter including made ground and areas of embankment.
8. Although not the most westerly developed point of Cockermouth, the appeal site nonetheless lies at a point of transition from the main built up area of the town to the south and east of Low Road / Parklands Drive to the open countryside of the river valley beyond. I saw that more recent housing had been, and was still in the process of being, built as part of the 'Laureates' development further west along Low Road.
9. Despite that, and that development's frontage presence to Low Road, the approach to Cockermouth along Low Road is pleasingly verdant. The roadside hedges alongside Low Road combine with an avenue of trees on the southern side of the road, the depth of vegetation along the former line of the railway which includes much of the appeal site and the parkland setting of the Fitz to create a pleasant and sylvan approach to the town.
10. Furthermore, when viewed from elevated positions to the north, particularly from the Papcastle Conservation Area (PCA) the extensive woodland areas along the northern side of Low Road form part of a ring of woodland, some mature, some less so, around the Fitz park and the grade II listed Fitz. The contribution that the vegetation and woodland within the appeal site makes is evident from Low Road, and helps define the character of that approach to the town, but contributes more significantly to the wider setting of the western end of Cockermouth when viewed from the more elevated positions on the northern banks of the Derwent and within the PCA that were visited during the

accompanied visit. From here, the swathe of trees along Low Road and those to the south of the Fitz are significant features in the landscape.

11. The proposal would entail the removal of almost all the vegetation within the appeal site. The appellant questioned the quality of the woodland and vegetation within the site, and particularly its tapering western spur, deriding the proliferation of Sycamore within it. Indeed, it was clear when viewing the site's interior that much of this woodland has established itself in the significant intervening period since the removal of the former railway track bed and the buildings previously located at the eastern end of the site<sup>2</sup> and the adjoining site to the east. Whilst the individual trees within the woodland area may well be of lower quality and varying in their maturity, their cumulative value should not be underestimated.
12. It was also clear, at the hearing and in written submissions, that the western approach to Cockermouth, which as I have described above I consider to contribute pleasantly to the setting of the town and the Fitz Park, is a feature held dear by many local residents. I accept that there are buildings set within sites to the west of the appeal site that lie within the alignment of the former railway line and I have carefully considered the evidence submitted regarding the nature of those uses<sup>3</sup> which was largely uncontested.
13. Portions of those buildings are visible from the Low Road corridor, albeit limited to the very upper portions of their elevations and roof structures. From those visible elements I do not consider them to be any more 'industrial' in character than they appear agricultural. More significantly, I saw that they are largely screened in both longer and closer views along Low Road by the hedgerow above the stone boundary wall, sporadic mature trees and the woodland vegetation towards the western end of the appeal site. Neither the presence of those buildings, nor the storage area and containers immediately adjoining the western end of the appeal site, have significant, dominant or determinative impacts on the character of the area which is instead defined by the verdant, sylvan nature of the woodland vegetation on the northern side of Low Road and the 'parkland' hedgerow and hedgerow trees on the southern side.
14. My attention has been drawn to the appeal decision<sup>4</sup> concerning the Laureates development. In allowing that appeal scheme, the Inspector considered that the Low Road approach into Cockermouth was not wholly rural in character. The town name sign, speed limit repeater signs and the kerb pavement on the northern side of the road are cited as examples of factors that support this conclusion. The presence, albeit largely hidden the small number of buildings on the northern side of the road, further support such an approach.
15. I do not disagree. However, to accept that the character of this approach to the town is 'not wholly rural' is not to accept that it does not display rural character traits, or that it is heavily urbanised. The site lies some way from the Laureate's Low Road frontage and is detached from it both visually and physically and, by virtue of the wooded belt along the northern side, and hedgerow and hedgerow trees on the southern side, in terms of its character and setting.

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<sup>2</sup> Appellant's Appendix 6 – Photographs of appeal site pre-demolition of buildings and Appellant's Appendix 10 – Appeal Site Context

<sup>3</sup> As described in Appellant's Appendices 9 - 15

<sup>4</sup> APP/G0908/E/11/2152403 and APP/G0908/A/11/2151737 as part of Appellant's Appendix 12 – Laureates Housing Development Site

16. The proposed development would entail the wholesale removal of trees and vegetation within the appeal site. This would be less problematic further towards the east of the site, where the scrub vegetation offers little in visual, ecological or biodiversity terms. However, elsewhere within the site and around its perimeter, the effects of the proposal would be more starkly felt.
17. The removal of vegetation would increase the visual permeability through the site and significantly erode the woodland belt experienced along Low Road and from elevated positions within the PCA. The introduction of native species hedgerows to front and rear would be a welcome addition to the site and provide pleasing ground level vegetation around the building and at the eastern end of the site. However, the physical constraints posed by site's proportions and dimensions would be such that the buildings would have an undue and harmful prominence within the immediate streetscene, at odds with the nature of the approach to Cockermouth from the west.
18. Thus, the southwest corner of the proposed retail unit and the southern elevation of the employment unit would have a dominant, harmful and damaging prominence wholly at odds with the existing character of the western portion of the site's frontage and the role that that plays in contributing to the character of the approach. I accept, as it was accepted at the hearing, that the eastern portion of the site closest to the Lakes Home Centre (LHC), has been subject to a long-standing allocation<sup>5</sup> and so development westwards beyond the LHC has long been contemplated.
19. However, although the proposal would provide gains in landscaping and visual terms through sensitive native species planting at the eastern end and south eastern corner, the planting provided elsewhere would fall somewhat short of providing a meaningful or beneficial alternative to the verdant setting to Low Road that presently exists. I have noted the explanation provided during the hearing that the frontage landscaping scheme seeks to respond to the parkland planting, hedgerow and hedgerow trees on the southern side of the road, opposite the appeal site. The trees would, I heard, reflect the 'formal, yet informal' avenue of intermittently located trees within the hedgerow on that side of the road.
20. That may be so, to an extent. However, the appeal site, by the very nature of its limited depth, lacks the scope to provide sufficient backdrop to the narrow frontage planting strips on either side of the proposed main entrance. The frontage would, for a considerable length, be dominated by the car park environment behind and, most notably, by the employment unit. That that unit would be towards the western end of the site, almost at the furthest point away from the retail unit and the adjacent LHC, would compound the incongruous visual nature of the proposal and the harmful effect that it, and the largescale clearance of vegetation from within the site, would have on the character and appearance of this otherwise pleasant, sylvan and largely rural approach to Cockermouth.
21. The LHC, although somewhat isolated on the northern side of Low Road, is nonetheless reasonably closely related to existing built and commercial development on the southern side of the road east of the roundabout junction with Parklands Drive. The LHC building extends westwards towards the existing service road which would also serve the proposed retail unit's service

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<sup>5</sup> EM2, within Allerdale Local Plan (1999) and Allerdale Local Plan First Alterations (June 2006)

- area. I accept too that the eastern portion of the site is within the town's development limit and that development there, whilst not inevitable, has at the very least been anticipated over an extended period of time.
22. However, the proposal would result in a further incremental spread of development in a westerly direction and would, for the reasons I have set out, be harmful to the pleasant, verdant setting of Low Road. The area of woodland vegetation in the western portion of the site contributes significantly to the setting of not just Low Road, but also to the parkland and grounds of The Fitz and the setting thereof.
23. A housing site<sup>6</sup> was described to me at the hearing on land to the south of Low Road. I have subsequently been advised that the Council were minded to approve, subject to completion of a planning obligation under section 106 of the Town and Country Planning Act 1990 (as amended), a further planning permission on this site for residential development. From the submitted evidence<sup>7</sup> whilst it would appear that this scheme would introduce built development into a swathe of the parkland on the western side of the site, it would remain distinct and separate from the appeal site. Moreover, on the largely open parkland and areas where ground altering works had been carried out, the visual impact of such development would be less immediate and visually dominant than the implications of the appeal proposal and the works proposed therein. It is also important to note that, whilst the proposal would introduce further development towards the Laureates west of the appeal site, the Council considered<sup>8</sup> this land to be partly subject to an extant permission<sup>9</sup>. Rather than support the principle of the appeal proposal, the potential development of this housing site emphasises the importance of the appeal site in its contribution to the setting of Low Road and the approach to Cockermouth.
24. My attention was drawn to the presence of a sewer easement along the site's northern boundary. Although vegetation along here towards the eastern side of the site is somewhat patchy and sporadic in its nature, location and density, as the site tapers towards the west the vegetation levels within the site and along this boundary increase. I am advised that there can be no guarantee that these areas of vegetation can be retained indefinitely due to the presence of the easement and possible need to clear the area if so required. The contribution that these areas of vegetation make to the otherwise verdant nature of the western portion of the site should therefore be afforded appropriately limited weight; not just in terms of the wooded area within the site, but also in terms of its contribution to the Low Road streetscene.
25. Whilst that may be so, the vegetation along this northern boundary is seen as part of the wider strip of vegetation that runs along the line of the former railway. Although aware of the potential for removal, the likelihood of its removal is not clear – clearly the existing vegetation has been present for an extended period of time now and has not been cleared on a significant scale. Even if it were to be removed in the meantime, the effects of that removal

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<sup>6</sup> LPA Ref No: OUT/2019/0028

<sup>7</sup> Appellant Reference JWID1676/LO42 – letter and attachments dated 21 October 2019

<sup>8</sup> Confirmed in the Development Panel report in relation to LPA Ref No: OUT/2019/0028 as submitted by appellant in correspondence referenced in footnote 5

<sup>9</sup> LPA Ref No: 2/2014/0880

- would not be keenly felt from Low Road, screened as it would be by the remaining areas of woodland to the front and body of the site.
26. However, the proposed landscaping scheme assumes a fresh start in terms of the treatment of this boundary. But, for the reasons I have set out above, I am not persuaded that the proposed landscaping scheme would be sufficiently robust or extensive to adequately mitigate the loss of the wooded area within, particularly, the western portion of the site and the contribution that it makes to the Low Road streetscene and the character and appearance of this approach to Cockermouth.
27. Whilst designed as 'a rural landscape to reflect the site's setting'<sup>10</sup>, the proposed landscaping scheme would not offset in visual terms the loss of the existing woodland areas and wooded embankments of the western portion of the site. I accept that in a 'no development scenario', as advanced by the appellant, trees could be lost and there would be no mechanism to secure their replacement. However, whilst there would be some positive elements to the scheme, such as the enhanced planting around the site's south-eastern corner and eastern side, the introduction of a broad species mix and a fresh mix of vegetation height and density, the proposed development as a whole would not afford sufficient scope within its boundaries to offset the harm to the character and appearance of the approach to Cockermouth along Low Road.
28. ALP policy DM17 does not preclude the loss of trees and vegetation. Instead, the loss of such is qualified by consideration of the importance, significance or positive contribution of those features and whether acceptable mitigation could be provided. I accept that the character and appearance of the wooded portion of the site and its perimeter towards its western end has evolved over time, rather than being planned, it nonetheless has significance, value and provides a positive contribution to the immediate area, which I heard and saw is a clearly held view of local residents.
29. The landscaping scheme would incorporate some positive elements but, as a whole, and these factors would not outweigh the generally positive contribution that the trees within the appeal site make to the approach to Cockermouth, notwithstanding their individual lack of quality. The proposed development would dominate the Low Road environment, incrementally extending substantial and prominent built development further westwards where such urbanising influences are limited and the defining character is largely, if not wholly, rural.
30. For these reasons, I conclude that the proposed development, by virtue of the largescale clearance of trees within the site, would result in an extended and urbanised form of development at odds with the prevailing character of the site and the western approaches to Cockermouth along Low Road. It would thus fail to respond positively to the character and distinctiveness of its location and would not integrate effectively with the natural environment around it. The proposal would be in conflict with Allerdale Local Plan (ALP) policies S4, S32, S33 and DM17.
31. The site does not lie within a Conservation Area, although the Papcastle Conservation Area lies a relatively short distance across the River Derwent

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<sup>10</sup> Third paragraph, section 11 – Landscape and Visual Assessment Prepared by Arlene McIntosh CMLI Landscape Architect

valley floor and in an elevated position above the appeal site and Cockermouth town centre also carries a Conservation Area. I also saw and was able to appreciate the physical relationship between the appeal site and the grade II listed Fitz and the parkland on the southern side of Low Road which forms part of the Fitz's setting.

32. The sylvan nature of the much of the western portion of the appeal site, and the intermittent hedgerow and trees along the site's northern boundary contribute to the verdant approach to Cockermouth along Low Road. These elements of the site contribute to the wider 'green infrastructure' referred to by the appellant and, from my observations of the site from Low Road and elevated positions from the nearby Papcastle Conservation Area, seems an apt description of the valley floor and sides surrounding the appeal site, and the contribution that the appeal site makes to it.
33. The parties are broadly agreed that the proposal would cause less than substantial harm to the setting of the Fitz and the Papcastle Conservation Area. It is also agreed that the proposal would not cause harm to the character or appearance of the Cockermouth Conservation Area. I have not been presented with any further evidence that would lead me to conclude other than in accordance with the conclusions of the main parties.
34. I am required to give great weight to the conservation of the heritage asset, irrespective of the degree of harm that would arise. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against public benefits of the proposal.
35. The public benefits of the proposal are well rehearsed by the appellant<sup>11</sup>. With regard to those arising from, or linked to, the proposal in terms of employment land, the contribution that the proposal would make in social and economic terms, the re-use of previously developed land and increasing consumer choice, I recognise that these are valid public benefits of the proposal. That the proposal would reclaim the made ground of the remaining elements of the former railway embankments would also carry some public benefit.
36. In the longer term, the landscaping proposals would mature and contribute to the wider setting of the surrounding area and would, to an extent, ameliorate the less than substantial harm to the setting of the Fitz and Papcastle Conservation Areas. Having regard to the detailed conclusions of the appellant's Heritage Statement<sup>12</sup> and the Council's position regarding heritage impact these elements of the proposal would ensure that outweigh the less than substantial harm to the setting of the Fitz, and the Papcastle Conservation Area by virtue of views towards, and from, it. However, this assessment of the proposal's position within its wider surroundings does not overcome the localised harm that I have identified above in terms of the effect of the extensive loss of tree cover on the character and appearance of the verdant Low Road approach to Cockermouth, and does not alter my conclusions in that respect.

#### *Location and employment land*

37. The ALP (policies S12 and DM3) seeks to support sustainable economic development by ensuring sufficient quality employment land is, and will be,

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<sup>11</sup> Summarised at paragraph 6.301 of Statement of Case

<sup>12</sup> Mb Heritage – Built Heritage Statement, June 2019

available. Together, these policies seek to protect existing employment sites until such time as they are reviewed through the site allocations process (ALP policy S12) or where an applicant is able to satisfy the Council in respect of a number of key tests and other matters (ALP policy DM3).

38. Allerdale Local Plan (ALP) policy S3 identifies Cockermouth as a 'Key Service Centre' (KSC), the second tier in the ALP's settlement hierarchy to the 'Principal Centre' of Workington. The scale of development will be expected to be commensurate with the settlement's position within the hierarchy. It is, as was discussed during the course of the hearing, a high level policy setting out a broad approach to the distribution of development and underpinning the Borough's hierarchy of settlements.
39. The eastern portion of the appeal site comprises of a saved employment allocation<sup>13</sup>. The proposal would result in the loss of this saved allocation with the eastern portion of the site proposed to accommodate the retail building and elements of the associated servicing and parking provision. Although the proposal would provide an element of employment use, this would lie beyond both the saved employment allocation and the town's settlement limit at this point of Low Road.
40. The saved employment allocation is a small site in the overall context of the Council's spatial growth strategy (ALP policy S3). Despite the eastern portion of the site scoring well<sup>14</sup> in an assessment of employment sites within Allerdale, I heard that the appeal site had failed to attract significant interest from marketing undertaken over an extended period of time. Although I accept the Council's point that as there were expressions of interest exhibited it is not true to say that there has been no interest shown in the site and I have carefully considered the nature of those expressions as described to me at the hearing by Mr Percival<sup>15</sup>.
41. The site has been extensively marketed and the appellant described at the hearing the marketing of the site, and particularly the nature of responses received, with little in the way of relevant or reasonably realistic expressions of interest. It is also, notwithstanding the approval of an employment development further to the west on Low Road, somewhat detached from other clusters of employment uses elsewhere within Cockermouth, thereby lacking the synergy and association that may otherwise exist where such clusters of complimentary uses are present. The same may be levelled at the employment element of the appeal proposal, but I am persuaded that the appeal scheme as a whole would establish a more positive and flexible base for the delivery of employment land than the long-allocated, but still vacant, allocation at the east of the site.
42. I heard the crux of a fundamental disagreement between the main parties as to the role of ALP policy S3 in terms of its application to employment land. Although the proportion of development to be directed towards each settlement (or groups of settlements) is expressed in percentage terms, it is clear from subsequent paragraphs of supporting text that the percentage figures refer to housing growth, not employment land. The supporting text to ALP policy S3 does provide a little more clarity in terms of the approach to employment

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<sup>13</sup> Allerdale Local Plan 1999, saved policy EM2 - Use Classes B1 / B2

<sup>14</sup> LPA Statement of Case Appendix 1 - Britain's Energy Coast - Site Proforma

<sup>15</sup> Carigiet Cowan

- allocations, stating that it will broadly follow the approach set out in ALP policy S3, taking into account a range of factors.
43. However, it was established at the hearing that although the quantum of the saved employment allocation 'lost' as a consequence of the proposed development, the employment element of the appeal proposal would partially offset that loss. Cumulatively, with other permissions, allocations and commitments, the effect of employment land within Cockermouth would, I heard, be negligible.
44. My attention was drawn to an appeal decision in Maryport<sup>16</sup> which concerned the loss of an existing employment site for residential redevelopment. This, the Council argue, demonstrates consistency of approach in terms of potential loss of employment sites. However, whilst there are some similarities in each proposal's effect on an existing / allocated employment site, the Inspector's conclusions there are not as clear as the Council argue and there appear to be material differences between the two.
45. In that instance, and with particular regard to the specific paragraphs<sup>17</sup> referred to by the Council, the Inspector was more concerned not about the effect of the loss the appeal site employment use but rather the implications of the proposed residential development upon the neighbouring strategic industrial estate. The proximity of residential properties to that industrial estate would impinge upon the flexibility of operations within that industrial estate. Such matters are not factors in this instance and I give the Maryport decision limited weight. In the context of the spatial strategy for growth set out in ALP policy S3, I am not persuaded that the loss of the allocated employment land within the site would be detrimental to either the current or future needs of the spatial strategy and the growth of Cockermouth as a key service centre, as stated by the Council in the first refusal reason. Nor would it result in quantitative or qualitative impact on such provision.
46. Turning to the provisions of ALP policy DM3, the Council has not adequately demonstrated why or how the appellant has failed to show compliance with criterion (a) of ALP policy DM3. Notwithstanding the only limited expressions of interest, which in any event I do not consider demonstrate reasonable expectations in terms of the suitability of the site, I was not presented with a compelling narrative as to why or how the marketing of the site undertaken on behalf of the appellant did not adequately show the site's continued lack of attractiveness for prospective occupants or uses. The site is thus neither attractive to prospective developers nor viable for development, speculative or otherwise.
47. Nor is it clear how, in the context of other allocations, permissions and commitments within and around Cockermouth, the loss of the employment allocation within the site would significantly impact upon the long-term supply of such land within the plan area in terms of quality or quantity, or otherwise undermine the ALP's spatial strategy. Indeed, I heard at the appeal that the proposal would, with other existing and emerging allocations and commitments through extant permissions, result in an increase, albeit only marginally so, in the total employment land within Cockermouth. Thus, given the somewhat vague approach to employment land in the strategic approach to growth set

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<sup>16</sup> APP/G0908/W/18/3200042

<sup>17</sup> Paragraphs 17 and 19 of the Inspector's Decision

out in ALP policy S3, I am not persuaded that the proposal would result in a loss, let alone a significant one, of the long term supply of employment land across the plan area or plan period or how the proposal would undermine the spatial strategy of the local plan.

48. It was common ground between the main parties that the scale of the proposed development would be broadly commensurate with Cockermouth's scale and role within the ALP's settlement hierarchy. I do not disagree. I am also led to conclude, on the basis of the evidence, that the proposal would not be in conflict with ALP policy DM3 as the Council have not compellingly demonstrated that the appellant's marketing conclusions fall short of the requirements of ALP policy DM3(a). I am also content that the appellant has adequately demonstrated that the proposal would not significantly impact upon the long-term supply of employment land within the ALP area across the plan period, or would undermine the ALP's spatial strategy as set out at ALP policy S3.
49. With regard to ALP policy S12, there would be conflict with its aims in terms of retaining and safeguarding existing employment sites and allocations. The proposal would fail to do so. However, it would bring about employment use as part of the redevelopment of that allocation site (and land adjoining it within the appeal site) and, with other commitments and allocations, ensure a comparable residual level of employment land within Cockermouth by paving the way for employment land in a location where, despite the appellant's previous marketing attempts, employment development has not been forthcoming over an extended period of time.

### **Other Matters**

50. The appellant has submitted a Unilateral Undertaking (UU) under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended). The UU sets out a framework for the content, and subsequent submission of, an Employment Unit Land Marketing Strategy which would, in turn, commit to the submission of an appropriate application for approval of the matters reserved in respect of the B1, B2 and B8 element of the proposal.
51. The Council have not raised objections to the content or aims of the UU. Whilst I have found that the proposal, and thus the loss of the saved employment land, would not cause detriment to the current and future spatial strategy for the Borough in terms of employment land provision, or in relation to Cockermouth as a Key Service Centre, the UU would provide certainty and assurance regarding the delivery of the employment land element of this hybrid proposal. I have therefore taken the provisions of the UU into account in my consideration of this matter.
52. There is no dispute between the main parties that the proposal would not adversely affect the viability or vitality of the town centre. I heard at the hearing that this is, however, a fear of the local traders who spoke at the event. However, matters of competition are not factors to which I give any significant weight and whilst I sympathise with the uncertainty that the arrival of a national retailer may cause to local traders, I have not been presented with any compelling evidence to lead me to reach a different conclusion to that reached by the Council, and agreed between the two main parties.

### **Conclusion**

*The planning balance*

53. For the reasons I have set out above, I conclude that the appeal proposal would prejudice the development plan's strategic approach to settlement hierarchy and employment land provision. I am also satisfied that it has been adequately demonstrated, by virtue of the paucity of relevant responses to the appellant's previous marketing exercise, that there is limited interest in the site for those purposes as it stands. As such, I accept that the site could not be reasonably upgraded to meet the current or longer term needs of modern business. There would be no conflict with ALP policies S3 or DM3 in this respect, and conflict with ALP policy S12 would be limited and not determinative in this context.
54. The proposal would deliver employment within the retail element of the proposal, in addition to that within the proposed B1, B2, B8 element of the scheme, which weighs in favour of the proposal. Whilst I heard that there was local opposition to the proposal on the grounds of its impact on the vitality and viability of Cockermouth town centre, there was no dispute between the main parties in this respect. I was not presented with any compelling or objective evidence that would lead me to an alternative conclusion. However, the absence of harm is a neutral effect and I give it weight accordingly.
55. These factors are not sufficient, however, to outweigh the harm that I have identified in respect of the proposal's impact on the character and appearance of the appeal site and the approach to Cockermouth from the west along Low Road. The trees within the site, whilst not of particularly high quality, are nonetheless covered by a Tree Preservation Order and they make a significant contribution to the verdant sylvan approach to Cockermouth from the west. I saw that this is broadly continuous along the northern side of Low Road and that the wooded area within the appeal site forms the eastern-most continuation of this. Together with the more formal avenue of trees along the southern side of Low Road, the appeal site contributes positively to the character and appearance of this approach, which I heard was recognised and valued as such by local residents.
56. Whilst the public benefits associated with the proposal, as outlined above, would outweigh the less than substantial harm to the setting of the grade II listed Fitz and the setting of the Papcastle Conservation Area, they do not diminish the localised and harmful impact on the character and appearance of the otherwise verdant and pleasant approach to Cockermouth along Low Road. Thus, for the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

*Graeme Robbie*

INSPECTOR

**APPEARANCES**

**FOR THE APPELLANT:**

Jeremy Williams	IDPlanning
Alison Ogle	Solicitor, Partner Walker Morris LLP
Arlene McIntosh	Landscape Architect
Richard Percival	Carigiet Cowen
Mike Bottomley	MB Heritage
Kevin Tilford	Westwood Service Limited
Michael Summers	ESC Transport Planning

**FOR THE LOCAL PLANNING AUTHORITY:**

Rachel Lightfoot	PFK on behalf of Allerdale Borough Council
Councillor Nicky Cockburn	Chair Development Panel, Allerdale Borough Council
Councillor Joan Ellis	Ward Councillor Christchurch Ward, Cockermouth

**DOCUMENTS SUBMITTED DURING THE HEARING**

<b>DOC1</b>	Allerdale Local Plan (Part 2) Site Allocations Pre-Submission Draft: Main Modifications and Proposed Map Modifications
<b>DOC2</b>	Examination of the Allerdale Local Plan (Part 2) Site Allocations: Post Hearings Advice letter dated 27 June 2019
<b>DOC3</b>	List of Questions and Discussion points submitted by Opus Land North (Cockermouth) Ltd
<b>DOC4</b>	Draft Statement of Common Ground marked 'Original+LPA+JW+LPA 23 <sup>rd</sup> Sept'
<b>DOC5</b>	Record of Attendance
<b>DOC6</b>	CIL Compliance Statement
<b>DOC7</b>	Planning Obligation by way of Unilateral Undertaking dated 24 September 2019 (submitted during site visit)