

Cabinet Agenda

Date: Tuesday, 4th March, 2014
Time: 2.00 pm
Venue: Committee Suite 1, 2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**
2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

Contact: Paul Mountford, Democratic Services Officer
Tel: 01270 686472
E-Mail: paul.mountford@cheshireeast.gov.uk

4. **Questions to Cabinet Members**

A period of 20 minutes is allocated for questions to be put to Cabinet Members by members of the Council. Notice of questions need not be given in advance of the meeting. Questions must relate to the powers, duties or responsibilities of the Cabinet. Questions put to Cabinet Members must relate to their portfolio responsibilities.

The Leader will determine how Cabinet question time should be allocated where there are a number of Members wishing to ask questions. Where a question relates to a matter which appears on the agenda, the Leader may allow the question to be asked at the beginning of consideration of that item.

5. **Minutes of Previous Meeting** (Pages 1 - 14)

To approve the minutes of the meeting held on 4th February 2014.

6. **Macclesfield Town Centre Regeneration: The Cheshire East Borough Council (Churchill Way, Macclesfield) Compulsory Purchase Order 2014 (Forward Plan Ref. CE 13/14-41)** (Pages 15 - 76)

To consider a report on the proposed acquisition of land to facilitate the regeneration of Macclesfield Town Centre.

7. **Notice of Motion - Garden Waste** (Pages 77 - 80)

To consider and respond to a motion on garden waste.

8. **Cheshire East Waste Strategy 2030** (Pages 81 - 88)

To consider a report on the development of a waste strategy for Cheshire East.

9. **All Change for Crewe - High Growth City - Crewe Green Link Road South: Submission of DfT Final Funding submission; authority to proceed to Phase 2: Detailed Design and Construction; and, agreements and approvals necessary to facilitate commencement of Phase 2: detailed Design and Construction (Forward Plan Ref. CE 13/14-61)** (Pages 89 - 114)

To consider a report which seeks approval to submit the Final Funding application to the Department of Transport to release funding towards the construction of the Crewe Green Link Road South scheme.

10. **Skills Development for Communities and the Unemployed through Re-Procurement of the SFAs Community Learning and Adult Skills Budget (Forward Plan Ref. CE 13/14-77)** (Pages 115 - 120)

To consider a report on the re-procurement of community learning and accredited adult skills provision services.

11. **Disposal of Land off Earl Road, Handforth (Forward Plan Ref. CE 13/14-79)** (Pages 121 - 128)

To consider the disposal of the Council's landholding at Earl Road, Handforth.

12. **Award of Contract for Supported Local Bus Service 88 Altrincham to Knutsford (Forward Plan Ref. CE 13/14-80) (Pages 129 - 132)**

To consider a report seeking approval to award the contract for bus service 88 between Knutsford and Altrincham until 31st March 2019.

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CHESHIRE EAST COUNCIL**Minutes of a meeting of the Cabinet**

held on Tuesday, 4th February, 2014 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor M Jones (Chairman)
Councillor D Brown (Vice-Chairman)

Councillors Rachel Bailey, J Clowes, J P Findlow, B Moran, P Raynes,
D Stockton and D Topping

Members in Attendance

Councillors Rhoda Bailey, L Brown, S Corcoran, K Edwards, I Faseyi,
R Fletcher, S Gardiner, S Hogben, P Hoyland, W Livesley, P Mason, R
Menlove, A Moran, B Murphy, L Smetham, A Thwaite and
S Wilkinson

Officers in Attendance

Mike Suarez, Peter Bates, Lorraine Butcher, Anita Bradley, Caroline
Simpson, Heather Grimbaldston, Tony Crane, Julie Davies and
Paul Mountford

Apologies

Councillors L Gilbert and P Groves

The Chairman welcomed Anita Bradley to her first Cabinet meeting as the
Council's new Head of Legal Services and Monitoring Officer.

118 DECLARATIONS OF INTEREST

Councillor S Gardiner declared a non-pecuniary interest in part of Item 3,
relating to a supplementary capital estimate for Manor Park Primary
School, Knutsford, as a governor of the school.

Councillor S Hogben declared a non-pecuniary interest in Item 12, relating
to Alternative Service Delivery Vehicles, as a Director of Ansa
Environmental Services Limited.

Councillor D Brown declared a non-pecuniary interest in Item 16, relating
to a proposal to prohibit the use of electronic cigarettes in Council
buildings, as a user of electronic cigarettes.

119 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public wishing to speak.

120

QUESTIONS TO CABINET MEMBERS

Councillor A Moran sought clarification of the Council's position on fracking in Cheshire East. The Leader of the Council responded that the Council's preference was for geothermal energy but fracking would not be ruled out if it could be done safely. His aim was to have a coherent energy policy which addressed energy poverty and the Council would be looking at whether it should have its own energy company.

Councillor S Corcoran asked if leisure centre staff had been asked to take a pay cut. The Leader responded that this was not the case but that staff who worked in the evenings and at weekends were receiving premium payments compared with staff who worked at other times. This was considered an inequitable situation which needed to be redressed. However, it had not been pursued following discussions with trade unions.

Councillor P Mason asked if there had been any further progress in attracting new jobs and businesses to Alderley Park. The Leader responded that there was now a preferred bidder and that the Council's aspiration was to have about 7,000 jobs at the site and to make it the premier biotech centre in Europe.

Councillor K Edwards asked about the future arrangements for the management of animals at Alderley Park and whether this would go forward as a standalone business. The Leader responded that he was concerned about the safety aspects but that the matter was under consideration.

121

MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 7th January 2014 be approved as a correct record.

122

THIRD QUARTER REVIEW OF PERFORMANCE 2013/2014

Cabinet considered a report on the Council's financial and non-financial performance at the three quarter year stage of 2013/2014.

Annex 1 to the report gave summary and detailed information about the Council's financial and non-financial performance at the three-quarter year stage of 2013/2014. There had been significant improvement in the financial position since the second quarter, and there was substantial improvement compared to this position in previous years.

The information in Annex 1 was set out in three sections:

- § Summary of Council Performance
- § Financial Stability
- § Workforce Development

The report identified where any approvals were required for revised estimates or virements.

RESOLVED

That

1. the following be noted:

- § the summary of performance against the Council's 5 key outcomes;
- § the projected service revenue and capital outturn positions, overall financial stability of the Council, and the impact on the Council's general reserves position;
- § the delivery of the overall Capital Programme;
- § approved supplementary capital estimates and virements up to £250,000 in accordance with Finance Procedure Rules;
- § Treasury Management investments and performance;
- § the Council's invoiced debt position; and
- § workforce development and staffing issues; and

2. the following be approved:

- § supplementary capital estimates and virements over £250,000 for inclusion in the Capital Programme to be approved by Council as part of the Medium Term Financial Strategy 2014/2017 report (Appendices 6 and 7 of the report); and
- § the allocation of additional specific grant (Appendix 9).

123 **THE COUNCIL'S MEDIUM TERM FINANCIAL STRATEGY 2014/17**

Cabinet considered the Leader's report and the Budget report on the Medium Term Financial Strategy for 2014/2017.

The 2013/2014 Budget was being achieved against a backdrop of reducing government grants, and this formed the solid base to manage expenditure in the medium term. The 2014/2015 Budget was balanced, including provision to freeze Council Tax for a fourth consecutive year. Medium term deficits, caused through on-going reductions in public sector spending, would be addressed through a continued focus on efficiency, local service delivery and a drive towards economic prosperity.

The report included, as appendices, the two documents which made up the Medium Term Financial Strategy (MTFS) for the period 2014/2015 to 2016/2017, namely:

The Leader's Report 2014/2017
The Budget Report 2014/2017

Both documents were the result of the Business Planning Process led by the Council from July 2013 to February 2014.

The business planning process would involve considerable engagement with local people and organisations and details of how this process was being managed were included in Appendix A of the report.

RESOLVED

That Council be recommended to

1. note the ongoing Budget Engagement exercise being undertaken by the Council as set out in Appendix A, Annex 4 to the report;
2. note the comments of the Council's Chief Operating Officer (Section 151 Officer) contained within the Budget Report regarding the robustness of estimates and level of reserves held by the Council based on the budget proposals (Appendix B);
3. approve the 2014/2017 Leader's Report (Appendix A) as part of the Medium Term Financial Strategy Report;
4. approve the 2014/2017 Budget Report (Appendix B), which presents the overall financial estimates related to the revenue and capital service proposals in the Medium Term Financial Strategy;
5. note the ambition and future spending plans of the capital programme, which is designed to flex as funding opportunities allow whilst ensuring that prudential borrowing remains within affordable limits;
6. approve a Band D Council Tax of £1,216.34 (no change from 2013/2014) (Appendix B);
7. approve the recommended Reserves Strategy and the proposal to create an earmarked investment reserve for £5.3m to improve the financial sustainability of the Council in the medium term;
8. note the 2014/2015 non-ring-fenced Specific Grants, and that any amendments to particular grants in the light of further information received from Government Departments or other funding bodies will be reported to Council (Appendix B, Annex 3);

9. agree the 2014/2015 Dedicated Schools Grant of £184.8m and the associated policy proposals (Appendix B, Annex 6);
10. authorise the Children and Families Services and Rural Affairs Portfolio Holder to agree any necessary amendment to the DSG position in the light of further information received from DfE, pupil number changes, further academy transfers and the actual balance brought forward from 2013/2014;
11. approve the recommended Prudential Indicators for Capital Financing (Appendix B, Annex 5).
12. note the risk assessment detailed in the Budget Report (Appendix B, Section 4); and
13. note the steps to becoming a commissioning council.

124 **TREASURY MANAGEMENT STRATEGY AND MINIMUM REVENUE PROVISION POLICY STATEMENT 2014/15**

Cabinet considered the 2014/15 Treasury Management Strategy Statement, incorporating the Minimum Revenue Provision Policy Statement, the Investment Strategy and Prudential and Treasury Indicators.

Strong financial management had strengthened the balance sheet, enabling the Council to continue its policy of utilising investment balances instead of taking out new external borrowing in order to finance capital expenditure. This had meant that the loans portfolio had not increased from the inherited position of the former County Council. This, along with a number of key decisions taken since 2009, including debt restructuring, repayment of prior years' debt using available reserves, rigorous daily investment decisions and the monitoring of available cash flows had enabled the Council's cash resources to be used to optimum benefit.

The Council remained committed to delivering appropriate levels of capital investment to support service improvement and local economic growth. It would continue to minimise the net cost of borrowing by ensuring that the capital programme could be funded without the need for additional external borrowing.

RESOLVED

That Council be recommended to approve the Treasury Management Strategy and the Minimum Revenue Provision Statement for 2014/15.

125 **THE STRATEGIC DIRECTION OF TRAVEL FOR ADULT SOCIAL CARE SERVICES - PROMOTING OPEN CHOICE**

Cabinet considered a report on the strategic direction of travel for regulated social care services.

The briefing paper 'Strategic Direction of Travel for Adult Social Care Services – Promoting Open Choice', which was attached at Appendix 1 to the report, focused on the strategic direction of travel and the market development of regulated social care services for older people in Cheshire East.

The briefing paper explained how by 'doing things differently' the Council would do more for less, enable individuals to control their own care and support, and increase opportunities for local businesses. The Council, working with its partners, would stimulate the market to encourage innovation and new ways of delivering services.

RESOLVED

That

1. the strategic direction of travel for regulated social care services be endorsed and officers be authorised to take all necessary steps to develop the market of social care services for older people in Cheshire East; and
2. Cabinet support 'doing things differently' by doing more for less, enabling individuals to control their own care and support and increasing opportunities for local businesses.

126 **ADULT SOCIAL CARE - STRATEGIC DIRECTION OF TRAVEL - INFORMAL SUPPORT TO ADDRESS PREVENTION AND EARLY INTERVENTION**

Cabinet considered the proposed strategic direction of travel for informal support to address prevention and early intervention for people with social care eligible needs.

The vision for the future was for the Council and partners to enable adults to be self-reliant and healthy for as much of their lives as possible. In this context the informal support for vulnerable adults and their carers needed to change to maximise the opportunities for self-reliance, independence, and healthy lives.

The report summarised the proposed strategic direction of travel for informal support to address prevention and early intervention for adults with social care eligible needs.

RESOLVED

That

1. the proposed strategic direction of travel for informal support for adults with social care eligible needs as outlined in the report be endorsed; and
2. officers be authorised to take all necessary steps to implement the proposed strategic direction of travel.

127 **PAY POLICY STATEMENT 2014/15**

Cabinet considered the recommendations of the Staffing Committee regarding the draft Pay Policy Statement for 2014/15.

The draft Pay Policy Statement for 2014/15, which reflected the position as at 1st April 2014, was attached at Appendix 1 to the report. The Statement had been updated to reflect the changes following the senior management review.

The Staffing Committee had considered the draft Statement at its meeting on 16th July and had recommended two minor amendments to the draft Pay Policy Report as follows:

- § Section 8: Publication and Access to Information - the Council should publish the data relating to employees with a salary of £50,000 and above.
- § Section 12: Re-Employment/Re-Engagement of Former Employee – delete “truly” so that it read “...not be re-employed or re-engaged in any capacity, except in exceptional circumstances ...”

RESOLVED

That it be recommended to Council that

1. Section 8 of the draft Pay Policy Statement be amended in accordance with the recommendation of the Staffing Committee, but the wording of Section 12 remain unchanged; and
2. the draft Pay Policy Statement as amended be approved.

128 **BUSINESS CASES FOR ALTERNATIVE SERVICE DELIVERY VEHICLES**

Cabinet considered a report on progress towards the Council becoming a strategic commissioning authority. The report included the formal business

cases for Ansa Environmental Services Ltd, Orbitas Bereavement Services Ltd and Everybody Sport and Recreation Services Ltd.

In February 2013 the Council had set out its three year plan to becoming a strategic commissioning council. This consisted of 29 major change programmes covering 8 key priorities. The plan set out the core purpose of the Council, and identified the need to redefine its role in core place-based services.

The move to a strategic commissioning model ensured a measured approach to achieving the Council's ambitions and provided a platform for the Council to redefine and reinvent services, avoiding 'salami' slicing, and to sustain quality services to residents and businesses. The intention to become a strategic commissioning council was supported by a clear strategic framework.

RESOLVED

That

1. the progress being made towards becoming a strategic commissioning Council be noted;
2. the business cases for change appended to the report for the following Council services to trade as wholly-owned companies be approved:

Ansa Environmental Services Limited; and
Orbitas Bereavement Services Limited.

3. approval be given for Everybody Sport and Recreation Services Limited (ESAR) to trade as a wholly-owned company of Cheshire East Council, if necessary, as a precautionary measure as it was expected that ESAR would become a registered charity before it took up any trading activity.

129 STRATEGIC JOINT COMMISSIONING FOR IMPROVED OUTCOMES AND VALUE FOR MONEY

Cabinet considered a report seeking approval to extend a number of contracts until a commissioning review aimed at improving health and wellbeing outcomes had been completed.

The Council's stated intention was to focus skills and capacity on the ambitious transformation of the use of resources to improve outcomes for citizens and local business and improve value for money.

The joint proposal from adults, children's and Public Health was that a group of existing contracts would not be re-tendered until there had been a whole system redesign across public health, adult social care, children's services, CCGs and other partners. Contracts for social care and health

would be awarded without competition to current providers. This approach would require a waiver from the Council's Contract Procurement Rules as contracts would be extended with current providers without a competitive tender for a limited and defined period.

RESOLVED

That

1. there be a waiver from following Contract Procurement Rules for the group of contracts that fulfilled the spend areas listed in the report;
2. the decisions relating to those contracts be delegated to the relevant Directors in consultation with relevant portfolio holders; and
3. officers be authorised to take all necessary steps to implement the proposal.

130 **PROCUREMENT OF FRESH PRODUCE**

Cabinet considered a proposed procurement route for fresh produce.

Cheshire East Catering currently spent about £460,000 per annum on Fresh Fruit, Vegetables, Milk, Dairy and Bread Products. These items were used primarily in schools in the preparation of school meals. The provision was currently provided via a framework agreement which was due to end at the end of February 2014.

The proposal was to run a Cheshire East 'own tender' procurement exercise separating the region into "Lots", to enable smaller businesses to show an interest in tendering for this provision, thus supporting the Local economy. The contract term was proposed to run from March 1st 2014 for three years with options to extend for two 12 month periods.

RESOLVED

That

1. the proposed procurement route be approved; and
2. authority be delegated to the Chief Operating Officer in consultation with the relevant Portfolio Holder to award a single or multiple contracts to the highest scoring bidder for each Lot.

131 **THE ENGLISH NATIONAL CONCESSIONARY TRAVEL SCHEME
2014/2016**

Cabinet considered a revised concessionary travel scheme for the period 1st April 2014 to 31st March 2016.

The English National Concessionary Travel Scheme provided free travel on local bus services to qualifying concessionaires. Local bus operators were reimbursed by local authorities so that they were left financially no better or worse off from the concession.

Cheshire East residents also had the opportunity to use the Flexible Demand Responsive Transport Service available in both the North and South of the Borough. Passengers on this pre-bookable service were also entitled to travel within the concessionary fare scheme as a discretionary enhancement offered by Cheshire East.

The current reimbursement scheme was due to expire on 31st March 2014. The report recommended the adoption of a revised scheme for the period 1st April 2014 – 31st March 2016.

RESOLVED

That

1. the revised reimbursement calculation for 2014-2016, which is likely to deliver an annual reduction of around £400,000 gross in annual reimbursement to bus companies, be approved;
2. the likely impact on bus services and individual bus companies that may result from the changes in reimbursement calculation as outlined in the report be noted;
3. authority be delegated to the Transport Manager, in consultation with the Portfolio Holders for Environment and Finance, to determine the detailed arrangements for scheme publication and administration, with day to day operation delivered on behalf of the Council by Cheshire West and Chester Council; and
4. the Portfolio Holder for Environment be given delegated authority, in consultation with local ward members, to approve changes to expenditure on local bus support in light of any de-registrations of local bus services that may result.

132 **PROPOSED AMENDMENT TO SMOKE FREE POLICY**

Cabinet considered a proposal that the current Council Smoke-Free Policy be amended to include electronic cigarettes.

The Smoke Free Policy had been adopted in November 2009. Following consultation, it was proposed that the Policy be amended to include electronic cigarettes. The use of 'e-cigarettes' had been noted in Council offices and other locations and was causing some concern amongst staff. The lack of reference to e-cigarettes in the current Policy was leading to a lack of clarity as to the acceptability of their use. It was proposed that the indoor use of e-cigarettes be banned in all Council premises and vehicles.

It was proposed to update the Policy at the same time, removing references to the Primary Care Trust.

RESOLVED

That

1. an amendment be made to the Smoke Free Policy to include reference to e-cigarettes and to ban their use from all Council premises and vehicles;
2. references to the 'Primary Care Trust' in the Policy be removed and replaced as appropriate; and
3. the Policy be reviewed in 2016 when e-cigarettes are licensed.

133 COUNCIL SUPPORT FOR CHESHIRE NEIGHBOURS CREDIT UNION

The Leader was of the opinion that this matter should be considered at the meeting as a matter of urgency in order to prevent any further delay in considering the recommendations of the Finance Policy Development Group. Consideration of the matter had been deferred at the previous meeting because the Group's Chairman, Councillor F Keegan, had been unable to attend.

Councillor Keegan was present at the meeting and, at the invitation of the Chairman, presented the report. Mr John Weir, the Chairman of the Cheshire Neighbours Credit Union, was also present and was afforded the opportunity to speak on the matter.

The report presented the recommendations of the Finance Policy Development Group in relation to Council support for Cheshire Neighbours Credit Union (CNCU). The recommendations had not been fully considered in terms of legal, financial, risk management and policy implications and further work was needed to consider whether the actions recommended were viable.

A variety of initiatives had recently been implemented by the Council to discourage residents from turning to payday lenders for high interest, short term loans that could lead to significant fees that people were unable to afford, causing them considerable financial difficulty. The Group's aim in making the recommendations had been to create a viable and ethical alternative to pay day lenders for residents across Cheshire East that provided quality services and was financially sustainable. Further details were contained in the report.

RESOLVED

That

1. the report of the Finance Policy Development Group be noted;
2. the Policy Development Group's recommended aims and objectives for the Credit Union as set out in section 11 of the report be endorsed;
3. the following recommendations, and the suggested approach to implementation in paragraph 13.1 of the report, be approved:
 - (a) that CNCU be given access to the libraries in Nantwich, Middlewich, Alsager, Sandbach and Macclesfield for at least two hours per week to increase visibility and to improve public access to its services. This would include, where possible, access to private meeting rooms for interviews and confidential discussions with members;
 - (b) that library staff in the libraries listed above be enabled to handle enquiries and general information requests about CNCU by receiving a training brief from CNCU;
 - (c) that consideration be given to providing CNCU with access to suitable Council owned office premises in Crewe, free of charge if possible. Ideally the office would allow public to access services from the street as well as storage space and access to private meeting rooms for interviews and confidential meetings;
 - (d) that the payroll deduction scheme offered by CNCU be promoted to Cheshire East employees via the CEntranet and Staff Notice Boards;
 - (e) that recruitment of volunteers from within the Council with marketing, finance or IT skills to help CNCU be carried out via CEntranet, Staff Notice Boards and the Council Website;
 - (f) that Cheshire East Councillors be encouraged to support credit unions by promoting them within their communities and sharing expertise through volunteering;
 - (g) that the Council encourage partners such as Citizens Advice Bureau, Registered Social Landlords and Community Groups to support and promote CNCU within their memberships;
 - (h) that links to CNCU's website be included on the Council's website;
and
 - (i) that a scheme to provide Cheshire East Care Leavers with membership to CNCU be initiated including funding for membership fees.

At the conclusion of the meeting, the Chairman announced that the full consultation on HS2 was now available on the Council's website.

The meeting commenced at 2.00 pm and concluded at 4.00 pm

M Jones (Chairman)

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 4th March 2014

Report of: Director of Economic Growth and Prosperity

Subject/Title: Macclesfield Town Centre Regeneration:
The Cheshire East Borough Council (Churchill Way, Macclesfield)
Compulsory Purchase Order 2014 (Forward Plan Ref. CE 13/14-41)

Portfolio Holder: Cllr Don Stockton - Housing, Planning, Economic Development and Regeneration

1.0 Introduction

- 1.1 As the second largest town in Cheshire East with a population of 53,000, Macclesfield has been prioritised by the Council as a key location for investment and economic growth. Macclesfield already has a number of features which set it apart from other towns: an independent identity and spirit, its silk heritage and buildings, a cultural vibrancy including arts, music and creative industries, its unique monthly 'Treacle Market', and its annual celebration at the Barnaby Festival.
- 1.2 Macclesfield as a whole has strong linkages and connectivity within the North West Region and beyond. It is situated at the edge of the Peak District, with direct rail links to London, close proximity to Greater Manchester and Manchester Airport and within easy reach of the M6, M56 and M60 motorways.
- 1.3 It has been a long held aspiration of the Council (and its predecessor, Macclesfield Borough Council) to regenerate Macclesfield town centre. Since 1984, the site has been allocated for redevelopment to enhance the core shopping area. This broadly complies with both National and Local Planning Policy and other supporting documents - an overview of which is set out in the draft Statement of Reasons. In 2011 Cheshire East Council conducted a survey asking local people what was most in need of improvement in their town. The results indicated that the town centre is seen as a key priority for improvement. Further consultations have helped identify people's aspirations for the town centre, and we have gathered together the views of many people on potential ways to further those aspirations.
- 1.4 The Council wants to harness the local enthusiasm to develop initiatives that will improve the town, building on its strengths. Working together with key stakeholders and the community, the Council has produced a *Macclesfield*

Town Centre Vision, which sets out a shared holistic approach to drive further regeneration and investment in the town. This focuses on proposals for distinguishable quarters within the town centre, and how these can be enhanced. The Council has also commissioned an *Arts, Cultural and Heritage Strategy* which takes into account the built environment, historic legacy, cultural vibrancy and community facilities. In addition, the development of Cheshire East's first town-specific *Housing Strategy* for the town centre is now underway.

- 1.5 Recognising the substantial potential of the town, and the need to enhance key parts of its public realm, the Council has committed a substantial amount of capital funding to enhance the public realm and street scene in the town centre, with over £750k identified for initiatives between 2012 and 2016. No other town in Cheshire East has received this amount of investment.
- 1.6 However, it is recognised that the town centre has underperformed compared with competitors in retail terms, with its place in the retail hierarchy dropping significantly over the past five to ten years, reflecting consumer spend shifting to other town centres and retail destinations, where there has been greater investment from both the public and private sector.
- 1.7 The proposed redevelopment offers an exciting opportunity to further enhance its attractiveness as a retail and leisure destination, bringing more people into the centre, making it more vibrant in the evening as well as during the day. This comprehensive mixed-use scheme includes a department store, cinema, retail units, office/community space, residential, new town square and a multi-storey car park. The development is a core element of the Central Retail Quarter, but it does not sit in isolation to other recent and planned investment as detailed above. This is a part of, not apart from, the town centre.
- 1.8 Cheshire East Council, and its predecessor authority, MBC, recognised this issue and led in developing plans for a new retail and leisure-led scheme for Macclesfield town centre. After revising plans to reflect recent changes in the retail and leisure development markets, the Council's development partner, Wilson Bowden, have put forward a scheme proposal that is sustainable and will add to the vitality and viability of Macclesfield town centre. Planning consent for this scheme was granted on 6 September 2013 (12/1212M).
- 1.9 This comprehensive redevelopment requires both Council land and land/properties in private ownership. To facilitate the delivery of the scheme, land not in the Council's ownership needs to be acquired. This report therefore seeks to make a Compulsory Purchase Order as a means to acquire the land identified. The Council's compulsory purchase powers are a measure of last resort. Negotiations are ongoing with those parties who have an interest in the Order Land, however not all of the outstanding interests are likely to be acquired by private treaty within a reasonable timescale.

2.0 Recommendations

Cabinet is requested to:

- 2.1 approve the making of a CPO pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) to acquire land and interests in respect of the land edged red and shaded pink on the plan attached to this Report and pursuant to Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 in respect of the acquisition of new rights within the land edged red and shaded blue on the attached plan for the purpose of facilitating the development, redevelopment and improvement of the land by way of a mixed use scheme comprising retail, leisure and office, community uses, residential dwellings, car parking, town squares and associated highway and public realm works;
- 2.2 approve the submission of the CPO to the Secretary of State for confirmation;
- 2.3 give authority to the Chief Executive and the Director of Economic Growth and Prosperity in consultation with the Portfolio Holder to take all appropriate actions in this matter including:
 - 2.3.1 the making, publication and service of notice of making of the CPO;
 - 2.3.2 the submission of the CPO to the Secretary of State for confirmation;
 - 2.3.3 taking all necessary steps to secure the confirmation of the CPO, including promoting the Council's case at any public local inquiry should one be required;
 - 2.3.4 delegate authority to the Chief Executive and the Director of Economic Growth and Prosperity in consultation with the Portfolio Holder to proceed with the negotiation, agreement and execution (if appropriate) of legal agreements which are required to secure the land including the acquisition by agreement of interests in advance of, and subsequent to, the making of the CPO and payment of appropriate compensation;
 - 2.3.5 in consultation with the Assets Manager, negotiating the acquisition of all interests and rights within the CPO and rights and interests affected by the CPO either by agreement or compulsorily and, where appropriate, to agree terms for relocation;
 - 2.3.6 approve agreements and undertakings with the owners of any interest in the CPO and any objectors to the confirmation of the CPO setting out the terms for the withdrawal of objections to the CPO.
 - 2.3.7 subject to confirmation of the CPO, to acquire title and/or take possession of the land to be acquired under the CPO including, as appropriate, by:

- serving Notice of Intention to Execute a General Vesting Declaration under the provisions of Section 3 of the Compulsory Purchase (Vesting Declarations) Act 1981;
- executing a General Vesting Declaration (or General Vesting Declarations) in respect of the land to be acquired under the CPO; and
- serving Notice to Treat and Notice of Entry in respect of any interest comprised within the CPO; and
- publishing and serving all necessary notices in connection therewith as appropriate;

2.3.8 in the event that the question of compensation is referred to the Upper Tribunal (Lands Chamber), to delegate authority to the Chief Executive and the Director of Economic Growth and Prosperity in consultation with the Portfolio Holder to take all the necessary steps in relation thereto; and

2.3.9 the appointment of appropriate consultants if necessary to assist and advise in regard the above.

2.4 to delegate to the Director of Prosperity and Economic Growth the power to:

2.4.1 propose the making of amendment orders to remove the Churchill Way car park, Duke Street car park and Exchange Street car park from the list of parking places within Macclesfield as set out in the Schedule to the Macclesfield Borough Council (Off Street Parking Places) (Civil Enforcement and Consolidation) Order 2008 or any replacement order to enable development to proceed in accordance with the developer's approved programme;

2.4.2 advertise the proposed orders and to invite consultation responses in accordance with statutory requirements;

2.4.3 consider consultation responses and to determine whether to make the orders;

2.5 the making of an application pursuant to section 19 of the Acquisition of Land Act 1981 to the Secretary of State for a certificate which authorises the compulsory acquisition of land that comprises public open space and to take all necessary steps to procure such a certificate, including promoting the Council's case at a public inquiry should one be necessary; and

2.6 to approve, as a matter of principle, the appropriation of land at Churchill Way to planning purposes in order to facilitate the proposed redevelopment of the land for a mixed use scheme comprising retail, leisure and office, community uses, residential dwellings, car parking,

town squares and associated highway and public realm works, and with the intention that Section 237 of the Town and Country Planning Act 1990 may be relied upon to override all covenants, easements and other relevant rights benefitting third parties which affect the land, in the event that such interests cannot be acquired by negotiation.

3.0 Reason For Recommendations

- 3.1 The CPO will facilitate the carrying out of development, re-development and improvement of the land by way of a retail-led mixed use scheme comprising retail, leisure and office, community uses, residential dwellings, car parking, new town square and associated highway and public realm works.
- 3.2 The acquisition of the land and interests contained in the CPO (“the Order Land”) and the new rights sought will contribute to the achievement and/or the promotion of the economic, social and environmental well-being of the area.
- 3.3 The comprehensive redevelopment scheme will deliver the following public benefits:

Economic Benefits

- 3.3.1 The Scheme will deliver a significant number of larger format modern retail units which will be attractive to retail and leisure operators. This will attract operators into the town centre rather than competing out of town destinations. This will arrest the ongoing decline of the town centre and will claw back trade and increase footfall which will benefit existing businesses.
- 3.3.2 The Scheme will create much needed jobs in an area where there are recorded levels of claimants for Job Seekers Allowance above the national average. The development authorised by the Permission is predicted to create in the region of 900 net additional full time jobs, with around 250 direct jobs during the construction phase over a two year period and an estimated further 90 “spin off” FTE jobs within the local area. A local procurement protocol and employment and skills plan secured via the s.106 agreement will ensure that opportunities for jobs and training are targeted at the local area.
- 3.3.3 It is anticipated that the Scheme will act as a catalyst to stimulate further inward investment in the locality of the Order Land¹.

Environmental Benefits

- 3.3.4 The Scheme will make much more efficient use of prime town centre land. In turn, this will reduce the need to develop greenfield sites with consequential environmental benefits;

¹ CBRE Economic Masterplan and Delivery Plan, page 71

- 3.3.5 The Scheme will enhance the appearance of currently visually poor locations and the setting of the Grade II* listed Heritage Centre, which is one of Macclesfield's most prominent heritage buildings, through the creation of a new public square, increasing pride of place and public perception of the town centre.
- 3.3.6 The Scheme will enhance the pedestrian experience along and across Churchill Way and Exchange Street, improving connectivity, whilst retaining reasonable movement patterns.
- 3.3.7 The Permission secures an additional £50,000 for works outside the Order Land to support initiatives being taken forward as part of the Town Centre Vision and a further £25,000 for improved signage within the town centre.

Social Benefits

- 3.3.8 The Scheme will significantly enhance the retail offer to better cater for the retail needs of the whole community. A department store and additional retailers will provide comparison goods which are not currently available in the town centre and which are not readily accessible by public transport, which were identified as desired by a significant majority of respondents in a 2010 public consultation².
- 3.3.9 The Scheme will enhance the town's leisure offer and opportunities for socialising in the evening as well as during the day. In particular, the provision of a cinema and restaurants as proposed in the Permission will address the aspirations of the substantial majority of respondents in a 2010 public consultation².
- 3.3.10 By enhancing the public realm with new street, spaces, seating and meeting places, designed to meet the requirements of the Equalities Act, the Scheme will provide new and enhanced areas for socialising and outdoor community events for the whole community to enjoy.
- 3.3.11 By improving the facilities in the town centre, the Scheme will make the town centre more attractive as a residential location, encouraging further development and population growth in a highly sustainable location.
- 3.4 A CPO is required to ensure that all the land required can be acquired so that the public and regeneration benefits associated with the redevelopment of the site can be realised.
- 3.5 The Council's use of compulsory purchase powers is as a measure of last resort. Negotiations are ongoing with those parties who have an interest in the Order Land, however not all of the outstanding interests are likely to be acquired by private treaty in order to ensure the delivery of the scheme within a reasonable timescale.

² Broadway Malyan Macclesfield Economic Masterplan Stage 2 Public Consultation summary report September 2010

- 3.6 In considering whether to confirm the CPO the Secretary of State will need to be convinced that there is a compelling case in the public interest for compulsory acquisition.
- 3.7 Members will also need to be satisfied before authorising the making of a CPO that this is a proportionate step in all the circumstances and that there is a compelling case in the public interest sufficient to justify any interference with the human rights of the parties affected.
- 3.8 A detailed justification for the CPO will be contained in the Council's Statement of Reasons which sets out the rationale for making the CPO and which will be served upon all owners and occupiers within the Order Land. The latest draft of the Statement of Reasons is appended to this report.
- 3.9 A local authority may appropriate land to be held for planning purposes for which it could have acquired land compulsorily under section 226(1)(a) of the Town and Country Planning Act 1990. If the Council has appropriated the land for planning purposes, it (and persons deriving title from the Council) may also rely on section 237 of the Town and Country Planning Act 1990. This section authorises the development or use of land in accordance with a planning permission, notwithstanding that the development or use involves interference with an interest or right to which section 237 applies, or a breach of a restriction as to use of the land. Reliance on section 237 will therefore authorise the Council to override third party interests in the land such as easements, rights to light and restrictive covenants, in order to permit the redevelopment proposals to proceed.
- 3.10 A further report, which sets out the detailed justification, will be brought before Cabinet should it be necessary to seek authorisation for powers of appropriation to planning purposes at [Churchill Way]. At present, it is considered that in principle there is a compelling case in the public interest to appropriate the land for planning purposes, but this will need to be considered further when the detailed resolution to use these powers is sought from Cabinet.

4.0 Background to the Report

Location and description of the Order land

- 4.1 The site is bounded by Great King Street and Exchange Street to the north; Churchill Way and Wardle Street to the south; Mill Street, Duke Street and Park Lane to the east; and Churchill Way to the west.
- 4.2 The topography of the Order Land generally slopes down from north to south, meaning that the southerly part of the Order Land is at a significantly lower level than the northerly part. Some parts of the Order Land have been built up to provide a level area for development. However, the land to the south of Samuel Street sits at a significantly lower level to the remainder of the Order Land.

- 4.3 The Order Land is located within the existing town centre as designated in the Macclesfield Borough Local Plan 2004 and is situated in a sustainable location close to shops, houses, key transport nodes, recreation facilities and community and health facilities.
- 4.4 The Order Land is under-utilised and generally characterised by low value and low density uses. The majority of the Order Land comprises three surface car parks (known as the Duke Street car park, Exchange Street car park and Churchill Way car park) which were laid out in the 1970s following the demolition of houses under a housing clearance programme. This gives the Order Land a barren, open appearance with little soft landscaping and exposes the rear of properties to public view.
- 4.5 Significant buildings within the Order Land include:
- 4.5.1 a warehouse (B8 storage and distribution use) which occupies the southern part of the Order Land between Samuel Street and Park Lane;
 - 4.5.2 three buildings on the Churchill Way car park including two retail outlets (A1 retail) and a substation;
 - 4.5.3 five residential properties on Roe Street (C3 residential); and
 - 4.5.4 a Senior Citizens Hall (D2 assembly and leisure) on Churchill Way.
- 4.6 A significant proportion of the Order Land is within the freehold ownership of the Council. There are a number of other parties that have interests within the Order Land and these are detailed in the draft Statement of Reasons attached to this report.
- 4.7 In addition, crane oversailing rights will be required which extend beyond the development boundary to facilitate the construction of the buildings as identified on the CPO plan. The jib and counter weight will pass over the air space identified and it is not intended to carry materials through this air space. Temporary rights of access for construction will also be required.

Development Agreement

- 4.8 The scheme will be delivered by the Council's development partner, Wilson Bowden Development Limited. A Development Agreement was entered into by the former Macclesfield Borough Council and the developer on 21 December 2007 ("the Development Agreement"). The Development Agreement is a binding legal document and sets out the basis upon which both parties work in partnership with each other to deliver the town centre scheme on agreed terms.
- 4.9 Cheshire East Council inherited the Development Agreement in March 2009. At around the same time, there was a marked downturn in the economy and as a consequence, it became clear that the proposed development would require amendments to take account of the downturn in the market.

Furthermore the Development Agreement needed revision to reflect these changes in the scheme as a result of the changed economic climate.

- 4.10 It was also felt that the proposed scheme needed to reflect the wider issues of Macclesfield, thereby taking into account the heritage, culture, leisure and uniqueness of the town. An Economic Masterplan was therefore commissioned to gather together the evidence required for a viable, deliverable and sustainable development. This process included technical analysis, market analysis, deliverability review and public consultation. This way forward was agreed by Cabinet on 20th December 2010. The Masterplan recognised the need for a revised scheme within Macclesfield, and there was strong public support for reducing the original retail content and enhancing the aspects set out above, capturing the heritage, culture, leisure, and uniqueness aspects of the town as a whole. As a result, Terms of Variation to the Development Agreement to reflect this were subsequently approved by Cabinet on 3rd May 2011 and subsequently advertised through the OJEU process.

Need for redevelopment

- 4.12 Macclesfield has struggled to attract multiple retailers and develop an enhanced leisure offer due to the size and configuration of units currently available. This has led to:
- 4.12.1 Macclesfield's position in the retail hierarchy dropping in the Venuescore UK Shopping Venue Rankings from 163rd to 208th between 2007 and 2010³, and has been recorded to fall again to 236th in 2013, a decline of 73 places since 2007
 - 4.12.2 The percentage of units vacant in the town centre rising from 10% in 2011 to 12.56% in 2012⁴;
 - 4.12.3 A 13% decline in the comparison goods floor space between 2006 and 2012⁵, as well as a 14% decline in the number of comparison goods units.
 - 4.12.4 An inefficient use of the site which presents a weak image of the town centre;
 - 4.12.5 Churchill Way acting as a barrier to pedestrian movement from east to west; and
 - 4.12.6 A lack of retail and leisure provision for local residents reliant on public transport.

³ White Young Green Planning and Design, Cheshire Retail Study Update April 2011, Appendix 3 page 3

⁴ AMT Town Benchmarking Report 2013

⁵ White Young Green, Appraisal of Retail Matters for Planning Application 12/1212M, April 2013, page 33

- 4.13 The proposed scheme is an integral part of the Council's wider vision for Macclesfield and is a key element in the regeneration of the town. It is also supported by planning policy at all levels:
- 4.13.1 The National Planning Policy Framework (“NPPF”) establishes that the planning system should contribute to the achievement of sustainable development which includes economic development, social development and environmental development. It seeks to improve the quality of the built environment and encourages the use of previously developed land in sustainable locations for mixed uses. The NPPF promotes competitive town centre environments and customer choice. The NPPF requires councils to plan positively for high quality and inclusive design.
- 4.13.2 The Saved Policies in the Macclesfield Borough Local Plan seek to ensure that town centre-type uses are located in the town centre. The prime shopping area is to be consolidated and enhanced. The Order Land has been identified for retail and leisure uses.
- 4.13.3 The draft Cheshire East Core Strategy encourages development which enhances the vitality of the town centre both during the day and night. The emerging Core Strategy supports the improvement of the town centre environment and the re-use of previously developed land.

Scheme

- 4.14 As a result of the revisions to the Development Agreement and changes to the scheme, in particular the reduction in the retail element, the redevelopment was reduced in scale. However the essential components of the scheme remained the same and reflected what was 'right' for Macclesfield. These components included:
- 4.14.1 Department Store (Debenhams signed up)
- 4.14.2 Multi-storey car park (718 spaces)
- 4.14.3 20 retail units
- 4.14.4 Minimum of 4 restaurants (Prezzo and Frankie and Benny's signed up)
- 4.14.5 8 screen multiplex cinema (Cineworld signed up)
- 4.14.6 10 residential units
- 4.14.7 new public square and enhanced public realm.
- 4.15 Detailed planning permission was granted on 6 September 2013 (reference 12/1212M) for the demolition of buildings to enable the development of a comprehensive mixed-use scheme, to include: A1-A5 retail space (22,865 sq m GEA, of which up to 2,325 sq m is A3-A5 and up to 6,430 sq m is a department store); cinema (4,255 sq m); office/community space (510 sq m); 10 residential units; 2 car parks providing up to 818 spaces; additional street

parking for 62 cars; new town square (Mulberry Square) and associated highway and public realm works.

4.16 Associated conservation area consent (reference 12/1213M dated 6 September 2013) for the demolition of 27, 29 and 31 Roe Street and the alteration/partial demolition of 23 and 25 Roe Street, with the front façade and roof to be retained has been obtained.

4.17 The main elements of the planning permission are summarised below:

Cinema, housing and restaurants

4.17.1 The new cinema building would front Churchill Way with a footprint of 78 metres by 46 metres. The cinema would provide nine screens and a cafe/foyer area which would sit partially above four restaurants accessed off Churchill Way and partly over a car park.

4.17.2 To the rear, a new terrace of 10 dwellings is proposed which would front onto Water Street. Eight of these would be two storeys high and two would be three storeys high.

4.17.3 Car parking (100 spaces – to include 5 disabled and 5 parent and child spaces) would be provided below the cinema. Accessed from Great King Street, this car park would be part surface parking and part undercroft below the cinema building.

4.17.4 Additional on-street parking would also be provided around the cinema, housing and restaurants in the form of 26 spaces on Water Street and 29 spaces on Wellington Street. A new shared surface is also proposed in front of the cinema to allow easy access to and from the existing retail and commercial units.

Town Square

4.17.5 A new town square (to be known as Mulberry Square) is proposed on part of the existing Exchange Street car park to the rear of the Heritage Centre. This would measure approximately 35 metres by 43 metres and form a focal point for the redevelopment as well as creating an improved setting for the Heritage Centre. Ground levels would be altered to ensure that there is an opportunity to integrate the terrace adjacent to the Heritage Centre with this new space. The square would provide a large green area with tree planting adjacent to Churchill Way. Pedestrian routes would be provided on key desire lines. Seating and lighting would also be provided.

4.17.6 A new retail building is proposed to the east of the square, which would have an active ground floor frontage onto the new public square.

4.17.7 The existing ramp to the side of the vacant TJ Hughes building would be removed to allow for an enhanced pedestrian environment. This area would become a major pedestrian link for the town and the ramp will be

removed and replaced with a series of steps in keeping with the enhanced landscape design for this area.

4.17.8 To the north of this new square would be a pavilion café with an external seating area.

4.17.9 There is currently a pedestrian walkway from Mill Street to the Exchange Street car park which measures approximately 25 metres by 25 metres. This would be enhanced with new public realm and a children's play area.

Retail Street/Department Store

4.17.10 The demolition of three properties on Roe Street is required to provide an appropriate link from the square in the north to the development south of Roe Street on the existing Duke Street car park.

4.17.11 Twenty new units would be provided on the new street (to be called Silk Street) including a department store sited on the southern end. Eighteen of the new units would be two storeys whilst the department store would effectively be a three storey building. Two floors would be retail and the lower ground floor (which would be accessed from Churchill Way) would contain the main servicing area.

Multi Storey Car Park

4.17.12 A new 6-storey car park which would provide 718 car parking spaces would be located on the site of an existing warehouse. A bridge would provide a level access from level 3 of the new car park through to Silk Street which would be designed to comply with the requirements of the Equality Act 2010.

Public Realm Improvements

4.17.13 A significant amount of public realm works are proposed, in addition to those in the two public squares and shared surface.

4.17.14 New surfacing would be provided on the east side of Churchill Way, the west side of Park Lane, and along Wellington Street. Tree planting is also proposed together with new distinctive street furniture to forge an identity for the development. Public art would also be used to enhance public spaces, engender civic pride and strengthen local identity.

4.18 The planning permission was granted subject to a section 106 agreement. In brief, the obligations are as follows:

4.18.1 payment of a contribution of £1,034,807 towards the cost of providing a meeting or events venue serving the local community which can function as a replacement for the existing senior citizens hall on the site;

4.18.2 a £100,000 contribution towards public realm and environmental improvements;

- 4.18.3 a £31,000 contribution towards the cost of making traffic regulation orders associated with the development;
- 4.18.4 operation of a Travel Plan including ongoing monitoring and review of the Travel Plan and the appointment of a Travel Plan Coordinator and the payment of £10,000 as a contribution towards the cost of implementing and monitoring the Travel Plan;
- 4.18.5 a £5,000 contribution towards the cost of providing an on-street coach stop;
- 4.18.6 payment of £25,000 as a contribution towards the cost of providing street signage for pedestrian and cycle wayfinding;
- 4.18.7 payment of a £21,152 contribution towards works associated with monitoring and protecting air quality; and
- 4.18.8 implementation of a local procurement protocol to provide opportunities for local businesses to bid/tender for the provision of goods and services to the development as well as an employment and skills plan to make employment and training opportunities available to local people during the construction and operation of the development.

5.0 CPO Powers

- 5.1 The Council will make the CPO using its powers under Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended). Section 226(1)(a) provides that a local authority shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily in their area if the local authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land.
- 5.2 Section 226(1A) of the Town and Country Planning Act 1990 requires that a local authority must not exercise a power under 226(1)(a) above, unless it thinks that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objectives:
 - 5.2.1 the promotion or improvement of the economic well-being of the area;
 - 5.2.2 the promotion or improvement of the social well-being of the area;
 - 5.2.3 the promotion or improvement of the environmental well-being of the area.
- 5.3 The benefits outlined in 3.3 fulfil the above criteria.
- 5.4 Section 13 of the Local Government Act 1976 enables the Council to compulsorily acquire any such new rights over the land as are specified in the compulsory purchase order. Crane oversailing rights will be required which extend beyond the development boundary to facilitate the construction of the development. The jib and counter weight will pass over the airspace

identified and it is not intended to carry materials through this air space. Temporary rights of access for construction will also be required.

- 5.5 The development proposals offer a significant opportunity to make a major impact upon the area. Subject to securing site assembly of the land via the CPO, the Council and the developer are in a position to proceed with the comprehensive regeneration proposals. Planning permission has been obtained, funding is being provided by the developer and a development agreement has been entered into. Subject to the confirmation of the CPO and car park orders, there are no other impediments to the delivery of the scheme. The CPO is required to expedite and guarantee the land acquisition to ensure that the comprehensive regeneration is achieved.

6.0 Wards Affected

- 6.1 The site is located within Macclesfield Central. However, the regeneration of this site and the employment and other benefits could be potentially beneficial to other neighbouring wards such as Macclesfield South, Macclesfield East, Macclesfield West and Ivy, and indeed wards further afield.

7.0 Local Ward Members

Councillor Janet Jackson and Councillor Ken Edwards

8.0 Policy Implications

- 8.1 The Scheme for the land on the attached plan which the actions outlined in this report seek to deliver is considered to fully align with emerging Council policy for this site as set out in the Pre Submission Draft of the Core Strategy and indeed aligns with the policy in the current development plan.

- 8.2 This proposal accords with, and is complementary to the following:

8.2.1 *Ambition for All: Sustainable Communities Strategy 2010-2025*

- Harness emerging growth opportunities;
- Create a climate attractive to business investment;
- Revitalising Macclesfield;
- Encourage environmentally sustainable living.

8.2.2 *Cheshire East Corporate Plan 2011-2013*

- Objective 2: Grow and develop a sustainable Cheshire East: foster economic growth and regeneration through providing the right environment for businesses to grow.
- Objective 4: Enhance the Cheshire East Environment

8.2.3 Cheshire East Economic Development Strategy

- Objective 1: Ensure that Cheshire East maintains and enhances its role as a 'knowledge economy';
- Objective 3: Raise the profile of Cheshire East and 'sell' the assets and opportunities of the area.
- Objective 4: Facilitate economic growth through progressing schemes that will create jobs and improve the attractiveness of the area as a place to invest, live and visit;
- Objective 5: enable a first-class quality of life for all our communities.

9.0 Financial Implications

- 9.1 Funding for land acquisition costs and scheme costs is provided by the developer with no contribution from the Council or other sources of public sector grant funding.
- 9.2 The Development Agreement provides for the developer to meet the Council's costs associated with the making and implementation of the compulsory purchase order.
- 9.3 If the compulsory purchase order is confirmed, the developer has agreed to indemnify the Council in respect of any CPO compensation arising as a result of the exercise of the Council's CPO powers.

10.0 Legal Implications (Authorised by the Borough Solicitor)

- 10.1 The use of compulsory purchase powers should be considered as a matter of last resort and a CPO should only be made where the Council is satisfied that there is a compelling case in the public interest to do so.
- 10.2 Members are advised that acquisition by negotiation should continue and that the making of a resolution or indeed the CPO process itself does not require these to be discontinued. Circular 06/2004 states that*"Before embarking on compulsory purchase and throughout the preparation and procedural stages, an acquiring authority should seek to acquire land by negotiation wherever practicable. The compulsory purchase of land is intended as a last resort in the event that attempts to acquire by agreement fail. Acquiring authorities should nevertheless consider at what point the land they are seeking to acquire will be needed and as a contingency measure should plan a compulsory purchase timetable at the same time as conducting negotiations. Given the time which needs to be allowed to complete the compulsory purchase process it may be often sensible for the acquiring authority to initiate the formal procedures an parallel with such negotiations"* It is therefore entirely appropriate to authorise the use of CPO powers while negotiations are continuing.
- 10.3 Members will need to consider the effects of the Human Rights Act and Article 1 of the First Protocol to the European Convention on Human Rights,

together with Article 8 in particular which refers specifically to domestic dwellings which need to be acquired for the scheme.

- 10.4 Article 1 protects the rights of everyone to the peaceful enjoyment of their possessions. No person can be deprived of their possession except in the public interest and subject to the relevant national and international law
- 10.5 Article 8 protects private and family life the home and correspondence. No public authority can interfere with this interest except if it is in accordance with the law and is necessary in the interests of national security public safety or the economic well-being of the country. In considering the above Articles it should be noted that the scheme is considered to be in the in the public interest, and for the social, environmental and economic well being of the town. Furthermore all property owners will be compensated and consideration given to alternative relocation or re housing as appropriate.
- 10.6 Members will need to consider the balance and compatibility between the compulsory powers sought and the European Convention on Human Rights. There is a compelling case for a CPO in the public interest and the acquisition of land to enable the scheme to proceed, thereby bringing benefits to the town, which could not be achieved without the use of compulsory purchase powers. In other words, the public gain would outweigh the private loss, which is not a financial loss. All parties have a democratic right to object to the CPO and attend a public inquiry arranged by the Secretary of State. Parties outside the CPO boundary may be afforded that right if the inquiry inspector agrees. The decision of the Secretary of State can be challenged by way of proceedings following Judicial Review. Finally the Courts have as a precedent held that this framework complies with the Convention and as such a decision to proceed is compatible with the Human Rights Act.
- 10.7 The Council considers that such interferences as may occur with the making and implementation of the CPO are in accordance with the law, pursue a legitimate aim (namely the economic well-being of the areas and/or the protection of the rights and freedoms of others) and are proportionate having regard to the public benefit that the scheme will bring which will benefit the economic well-being of the area. The interferences are also proportionate having regard to the alternative means of regenerating the area.
- 10.8 Those directly affected by the CPO will also be entitled to compensation which will be payable in accordance with the Compensation Code and assessed on the basis of the market value of the property interest acquired, together with disturbance (i.e. reasonable moving costs and costs/losses directly related to the compulsory acquisition) and statutory loss payment (eg home loss payments). The reasonable surveying and legal fees of those affected will also be paid by the Council. The Compensation Code has been held to be compliant with Article 8 of the Convention and Article 1 of the First Protocol.
- 10.9 The Council is satisfied that the redevelopment of the land will have a significant positive impact on the social and economic well-being of the local

population as the redevelopment will revitalise Macclesfield town centre and provide much needed improvements to retail offer, leisure facilities and will contribute towards employment opportunities in the area both during and after construction. Compulsory purchase of third parties' land and interests within the land is necessary to allow this comprehensive redevelopment to proceed and for these benefits to be delivered.

- 10.10 The public sector equality duty under the Equality Act 2010 requires the Council to have due regard to (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; and (ii) the need to advance equality of opportunity between persons who share a relevant projected characteristic and persons who do not share it.
- 10.11 Under the Equality Act 2010, the Council is required to identify the impacts of any decisions, policies etc on certain protected groups to ensure equality is promoted, and inequality minimised (the public sector equality duty). Decision makers must have due regard to the public sector equality duty and to assist Cabinet in complying with this duty an Equality Impact Assessment has been undertaken.
- 10.12 A comprehensive programme of public consultation and stakeholder engagement has been undertaken to ensure the Scheme reflects local needs and the needs of those with protected characteristics. This includes key interest / community groups and also the Macclesfield Disability Bureau.
- 10.13 A Senior Citizens' Hall is to be demolished as part of the proposals and consultants were commissioned by the Council to review community facilities within the town to find a replacement Senior Citizens facility. Extensive consultation has been undertaken with user groups of the Hall and also others providing activities for senior citizens in and around Macclesfield. Options have been considered and a preferred option has been identified. The consultation process will continue in order to meet the needs of the groups affected.
- 10.14 Pursuant to sections 32 and 35 and Schedule 9 to the Road Traffic Regulations Act 1984 (as amended) the Council can approve and authorise for consultation amendment orders which if made and put into effect will have the effect of removing three car parks from the list of parking places within Macclesfield set out in the Schedule to the Macclesfield Borough Council (Off-Street Parking Places) (Civil Enforcement and Consolidations) Order 2008 or any replacement order.

11.0 Risk Management

- 11.1 The making of the CPO potentially increases the existing risk of blight. In order for a valid blight notice to be served, the applicant will need to demonstrate that they cannot sell their interest at anything other than an unreasonably reduced sum. None of the owners or occupiers of the site appears to fulfil the legal criteria to serve a blight notice.

- 11.2 If the CPO is not promoted at this time, there is a risk that the required land will not be acquired thereby preventing the scheme from progressing.
- 11.3 Negotiations will continue in parallel with the CPO process and every effort will be made to acquire all property interests and rights by agreement. However, it is unlikely that there will be any further acquisitions by agreement therefore there is a risk that without the use of CPO powers to guarantee land acquisition that the scheme would be substantially delayed or abandoned.

12.0 Conclusion

- 12.1 Officers recommend that Members resolve to make the Decisions in section 2 of this report.

13.0 Access to Information

- 13.1 The background papers relating to this report can be inspected by contacting the report writer:

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Designation: Regeneration and Major Projects Manager
Tel No: 01270 685906
Email: Jez.Goodman@cheshireeast.gov.uk

Appendix 1

Plan to be attached to the Compulsory Purchase Order

Appendix 2

Draft Statements of Reasons

Map referred to in The Cheshire East Borough Council (Churchill Way, Macclesfield) Compulsory Purchase Order 2014

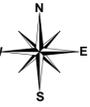
Produced by: TerraQuest
10 Clement Street
Birmingham
B1 2SL

On behalf of: Cheshire East Borough Council
Westfields
Middlewich Road
Sandbach
Cheshire
CW11 1HZ

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1.4	20/02/2014		MB	CC	KP
Ver	Date	Comments	Dm	Chk	App

Key plan:
 Land to be acquired
 New rights to be acquired



Delivered to:
Cheshire East Borough Council

Business Unit:	Land Acquisition	Status:	FINAL
Approved By:	KP	Approved Date:	20/02/2014
Checked By:	CC	Checked Date:	20/02/2014
Drawn By:	MB	Date Drawn:	20/02/2014

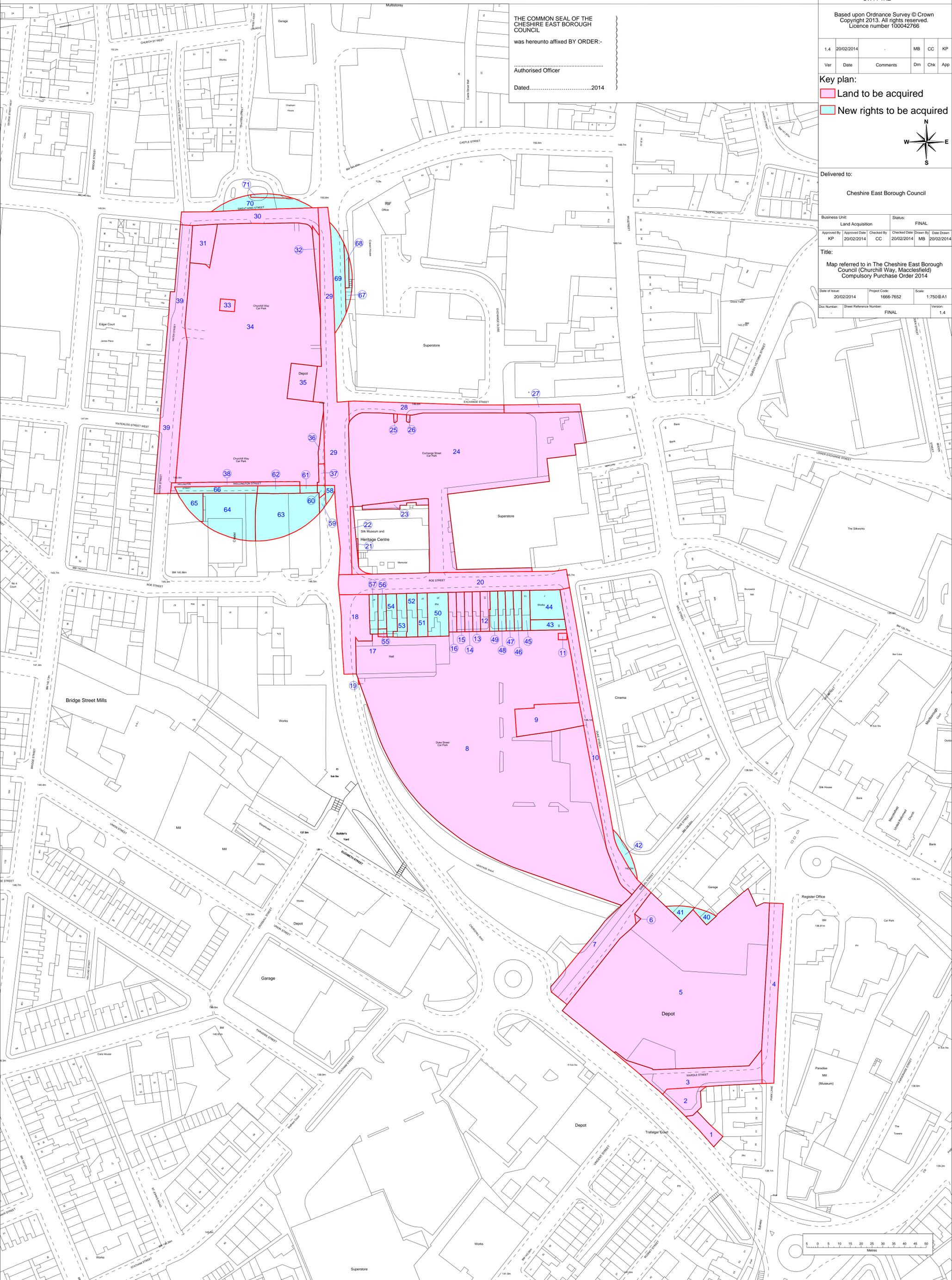
Title:
Map referred to in The Cheshire East Borough Council (Churchill Way, Macclesfield) Compulsory Purchase Order 2014

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THE COMMON SEAL OF THE
CHESHIRE EAST BOROUGH
COUNCIL
was hereunto affixed BY ORDER:-

Authorised Officer

Dated.....2014



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THE TOWN AND COUNTRY PLANNING ACT 1990
THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
AND
THE ACQUISITION OF LAND ACT 1981

THE CHESHIRE EAST BOROUGH COUNCIL (CHURCHILL WAY,
MACCLESFIELD) COMPULSORY PURCHASE ORDER 2014

DRAFT STATEMENT OF REASONS

1. **INTRODUCTION**

- 1.1 This document is the Statement of Reasons of Cheshire East Borough Council ("**the Council**" or "**the Acquiring Authority**") prepared in connection with the making of a compulsory purchase order, entitled The Cheshire East Borough Council (Churchill Way, Macclesfield) Compulsory Purchase Order 2014 ("**the Order**") which is to be submitted to the Secretary of State for confirmation.
- 1.2 The Council has made the Order pursuant to the powers in Section 226 (1)(a) of the Act and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976. In the Statement of Reasons, the land and rights included within the Order are referred to as "**the Order Land**". The Council is the local planning authority and the local highway authority for the Order Land.
- 1.3 The Council's purpose in seeking to acquire the land and rights included in the Order is to facilitate the development, re-development and improvement of the Order Land by way of a mixed use scheme comprising retail, leisure and office floorspace, community uses, residential dwellings, car parking, new town square and associated highway and public realm works ("**the Scheme**"). The Council considers that the Scheme will contribute to the regeneration of Macclesfield Town Centre, providing a much needed catalyst to an area that is in decline, and delivering important public benefits including significant investment in the town, new jobs and environmental improvements.
- 1.4 It is proposed that the Scheme will be delivered by the Council's development partner, Wilson Bowden Developments ("**WBD**"), which is a wholly owned subsidiary of Barratt Developments Limited. WBD is an established developer with a strong record of delivering of town centre mixed-use developments, including at Wrexham, Nottingham, Royal Leamington Spa and Harlow.
- 1.5 WBD has obtained full planning permission for the demolition of buildings on the Order Land to enable the development of a comprehensive mixed-use scheme, to include A1-A5 retail space (22,865 sq m GEA, of which up to 2,325 sq m is A3-A5 and up to 6,430 sq m is a department store); cinema (4,255 sq m); office/community space (510 sq m); 10 residential units; two car parks providing up to 818 spaces; additional street parking for 62 cars; new town square; and associated highway and public realm works. Conservation area consent has been obtained for the demolition of 27, 29 and 31 Roe Street. A detailed description of the proposals is found at Section 5 of this document.

1.6 WBD has already acquired some of the interests within the Order Land by agreement. Whilst WBD continues to negotiate with the relevant parties in order to acquire the outstanding interests, the Council has made the Order to ensure that the necessary interests may be acquired with certainty within a reasonable timetable so as to permit the Scheme to proceed.

1.7 This Statement of Reasons has been prepared in compliance with both paragraphs 35 and 36 of Part 1 of the Memorandum and Appendix R of Circular 06/04 – Compulsory Purchase and the Crichel Down Rules.

2. **DESCRIPTION OF THE ORDER LAND**

2.1 The Order Land extends to approximately [xx] hectares. The site is bounded by Great King Street and Exchange Street to the north; Churchill Way and Wardle Street to the south; Mill Street, Duke Street and Park Lane to the east; and Churchill Way to the west.

2.2 The topography of the Order Land generally slopes down from north to south, meaning that the southerly part of the Order Land is at a significantly lower level than the northerly part. Some parts of the Order Land have been built up to provide a level area for development. However, the land to the south of Samuel Street sits at a significantly lower level to the remainder of the Order Land.

2.3 The Order Land is located within the existing town centre as designated in the Macclesfield Borough Local Plan 2004 and is situated in a sustainable location close to shops, houses, key transport nodes, recreation facilities and community and health facilities.

2.4 The Order Land is under-utilised and generally characterised by low value and low density uses. The majority of the Order Land (approximately 2 ha) comprises three surface car parks (known as the Duke Street car park, Exchange Street car park and Churchill Way car park) which were laid out in the 1970s following the demolition of houses under a housing clearance programme. This gives the Order Land a barren, open appearance with little soft landscaping and exposes the rear of properties to public view.

2.5 Significant buildings within the Order Land include:

- 2.5.1 a warehouse (B8 storage and distribution use) which occupies the southern part of the Order Land between Samuel Street and Park Lane;
 - 2.5.2 three buildings on the Churchill Way car park including two retail outlets (A1 retail) and a substation;
 - 2.5.3 five residential properties on Roe Street (C3 residential); and
 - 2.5.4 a Senior Citizens Hall (D2 assembly and leisure) on Churchill Way.
- 2.6 Around [%] of the Order Land is within the freehold ownership of the Council.
- 2.7 In addition to the Council and WBD, the following parties have interests within the Order Land:
- 2.7.1 Tesco Stores Limited and Arighi Bianchi & Co. Limited who have a freehold and leasehold interest respectively in land and buildings to the west side of Park Lane;
 - 2.7.2 Elizabet Gonzalez Frutos who has a freehold interest; and Ameer Ahmed Abassi and Hamid Mahmood Zafar (trading as The Entertainment Centre); Sertan Cetinkaya (trading as My Design) and Hasan Deveci (trading as Deveci Kitchens and Bedrooms) who have leasehold interests in 10-16 Great King Street;
 - 2.7.3 Suzanne Mary Barlow and Nicholas Arthur Wellings and Secondtek Limited who have the freehold and leasehold interests respectively in the store and premises fronting the west side of Churchill Way occupied by Secondtek Limited;
 - 2.7.4 Himor (Retail) Limited and Sainsbury's Supermarket Limited who have leasehold interests in land and premises on the south side of Exchange Street fronting Roe Street, Churchill Way, Exchange Street including former TJ Hughes and 2 Exchange Street (former Textiles Direct) and the Exchange Street surface car park (300 car parking spaces);
 - 2.7.5 Katherine Elizabeth Jones and David Gareth Jones who have a freehold interest in 23 Roe Street;
 - 2.7.6 Joanne Rose Salem and Jonathan Michael Salem who have a freehold interest in 25 Roe Street;

- 2.7.7 Susan Clare Hammill and Edward Sean Anthony Hammill who have a freehold interest in 27 Roe Street;
 - 2.7.8 Ian Charles Parker who has a freehold interest in 29 Roe Street;
 - 2.7.9 Selmar Properties Limited who has a freehold interest in the Dukes Court surface car park of approximately 15 car parking spaces; and
 - 2.7.10 electricity substations.
- 2.8 In addition, crane oversailing rights will be required which extend beyond the development boundary to facilitate the construction of the buildings as identified on the CPO plan. The jib and counter weight will pass over the air space identified and it is not intended to carry materials through this air space. Temporary rights of access for construction will also be required.

3. **ENABLING POWERS**

- 3.1 The Council has the power in Section 226(1)(a) of the Town and Country Planning Act 1990 ("the Act") to make a compulsory purchase order for any land in its area if the Council thinks that the purchase of the land will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. Section 226(1A)(a) of the Act provides that the Council may not exercise the power unless it thinks that the development, re-development or improvement is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of its area.
- 3.2 Section 226 (4) of the Act provides that it is immaterial that the development, re-development or improvement may be carried out by a third party.
- 3.3 Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 enables the Council to compulsorily acquire any such new rights over the land as are specified in a compulsory purchase order.
- 3.4 Circular 06/2004 ("**the Circular**") provides guidance on the use of these compulsory purchase powers. The Introduction to the Circular states that:

"Ministers believe that compulsory purchase powers are an important tool for local authorities and other public bodies to use as a means of assembling the land needed to help deliver social and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, the revitalisation of

communities, and the promotion of business – leading to improvements in quality of life. Bodies possessing compulsory purchase powers – whether at local, regional or national level – are therefore encouraged to consider using them pro-actively wherever appropriate to ensure real gains are brought to residents and the business community without delay”.

- 3.5 The main body of the Circular provides general guidance on the use of compulsory purchase powers by acquiring authorities whilst Appendix A provides specific guidance for local authorities on the use of their powers under Section 226. Paragraph 2 of Appendix A of the Circular provides that “the powers in Section 226 as amended by Section 99 of the Planning and Compulsory Purchase Act 2004 are intended to provide a positive tool to help acquiring authorities with planning powers to assemble land where this is necessary to implement the proposals in their community strategies and Local Development Documents”, which will include “saved” unitary development plans.
- 3.6 The Scheme complies with all relevant guidance.

4. THE COUNCIL’S PURPOSE IN SEEKING TO ACQUIRE THE LAND

- 4.1 The Council (and the former Macclesfield Borough Council before it) has been seeking to improve the shopping and leisure provision in Macclesfield town centre for some time. The Order Land was first identified in the 1984 Macclesfield Local Plan as suitable for retail use and is an important strategic development site within the existing town centre.

The problems which the Order seeks to address

Economic issues

- 4.2 The existing offer within the town centre has proven to be unattractive to multiple retailers seeking larger format, modern units. Retailers and leisure operators have been attracted to competing locations such as Grand Junction Retail Park in Crewe; the Peel Centre in Stockport; Stanley Green Retail Park in Cheadle; and the Trafford Centre. Within the Macclesfield area, national comparison retailers are choosing to locate at Lyme Green Retail Park and Silk Retail Park rather than the town centre.

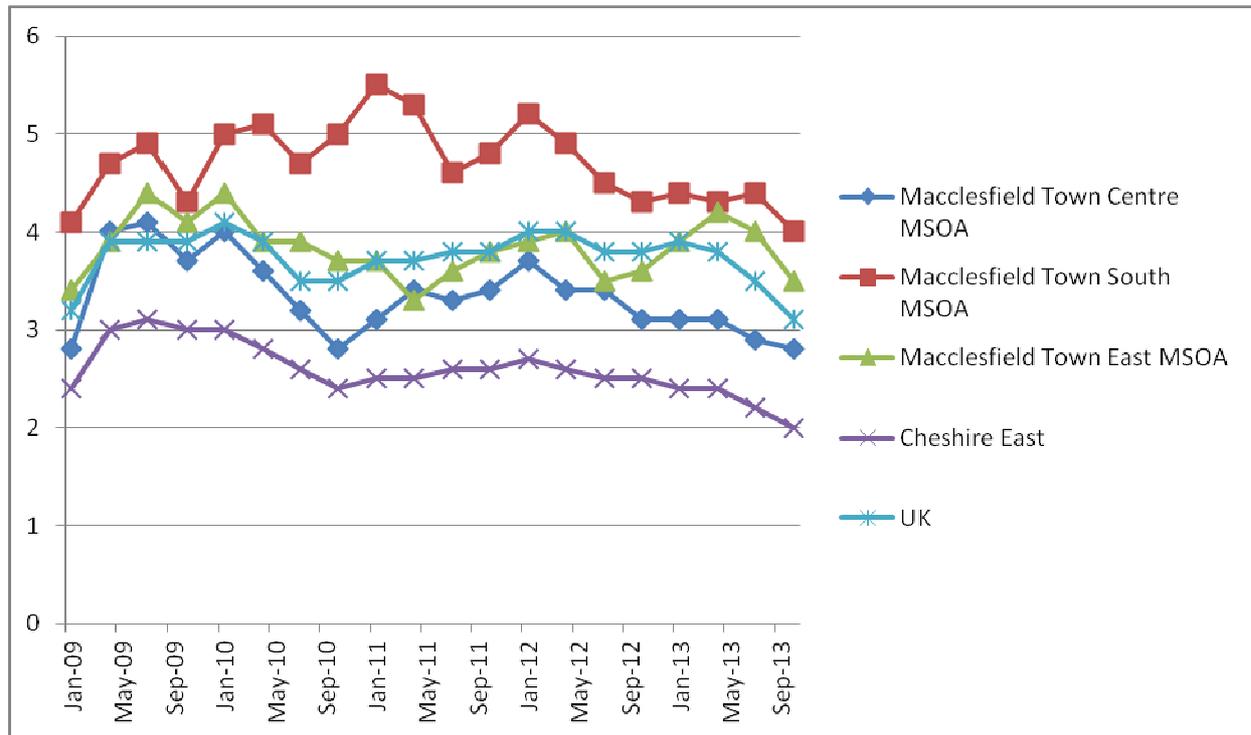
- 4.3 As a result, Macclesfield town centre has struggled to attract multiple retailers and develop an enhanced leisure offer. The lack of investment in the town centre has resulted in:
- 4.3.1 Macclesfield's position in the retail hierarchy dropping in the VenueScore UK Shopping Venue Rankings from 163rd to 208th between 2007 and 2010, and has been recorded to fall again to 236th in 2013, a decline of 73 places since 2007¹;
 - 4.3.2 The percentage of units vacant in the town centre rising from 10% in 2011 to 12.56% in 2012²; and
 - 4.3.3 A 13% decline in the comparison floor space between 2006 and 2012, as well as a 14% decline in the number of comparison goods units³.
- 4.4 Macclesfield is at a crossroads and to do nothing would, on the basis of current trends, lead to continued decline and further shop closures.
- 4.5 This picture of decline within the town centre is set against a backdrop of local unemployment which is higher than the national average. Whilst unemployment within Cheshire East as a whole is relatively low, within east, south and west Macclesfield unemployment rates are higher than the national average as shown in Figure 1 below.

¹ White Young Green Planning and Design, Cheshire Retail Study Update April 2011, Appendix 3 page 3 and VenueScore Tables 2013-2014

² AMT Town Benchmarking Report 2013

³ White Young Green Appraisal of Retail Matters for Planning Application 12/1212M, April 2013, page 33.

Figure 1: Job Seekers Allowance Claimant count as a percentage of the resident working age population⁴



4.6 As examples, in July 2013, whilst the national average for the percentage of the working population claiming Job Seekers Allowance was 3.5%, in Macclesfield Town East MSOA it was 4% and in Macclesfield Town South MSOA it was 4.4%⁵. Indeed, within Macclesfield Town South MSOA, a Lower Super Output Area ("LSOA") within half a mile of the Order Land has been ranked as within the 11% most deprived in England⁶.

4.7 In conclusion, it is in the interests of the economic wellbeing of the area to improve the competitiveness of the town centre through the development of a retail and leisure scheme which will mark a step change in the town's retail offer, attract expenditure into the town centre, prevent further decline of the town centre and create employment opportunities.

⁴ JSA claimant count records the number of people claiming Jobseekers Allowance (JSA) and National Insurance credits at Jobcentre Plus local offices. This is not an official measure of unemployment, but is the only indicative statistic available for areas smaller than Local Authorities. All based on pre-2011 Census estimates and not including claimants of universal credit. Source: NOMIS - Official Labour Market Statistics

⁵ MSOA refers to Middle Layer Super Output Areas. Statistics taken from NOMIS – Official Labour Market Statistics.

⁶ LSOA E0101 – 8640 ranked at 10.7% in the 2010 Index of Multiple Deprivation Percentage Values – English Indices of Deprivation 2010, DCLG

Environmental issues

- 4.8 The Order Land is currently used inefficiently, with the majority of the land given over to surface car parking, much of which is underused. This represents a poor use of land resources in a key town centre location.
- 4.9 In addition, the Order Land presents a weak image of the town centre, particularly when approaching from the west. The surface car parking has little or no soft landscaping and a barren appearance. The area to the west of Churchill Way is punctuated by isolated buildings, presenting visually weak rear elevations to public view. This poor public realm provides an inappropriate and inadequate setting for the Grade II* listed Heritage Centre which is adjacent to the Order Land.
- 4.10 Some of the buildings adjacent to the Order Land are of poor design, dated and, in some cases, poorly maintained. The open nature of the Order Land draws attention to these buildings, further detracting from the environmental quality of the area.
- 4.11 Churchill Way, which separates the western and eastern parts of the Order Land, acts as a barrier to pedestrian movement from the west to the town centre, segregating the town centre from the adjoining urban fabric and further contributing to a poor urban environment.
- 4.12 The poor environmental quality of this area makes it less competitive as a destination for consumers and retailers alike.
- 4.13 The lack of choice in retail and leisure provision in the town means that local residents have to travel beyond the town centre to access facilities that would usually be provided in a town centre. Many of the alternative destinations (such as Lyme Green retail park and the Trafford Centre) are less accessible by public transport.

Social issues

- 4.14 Macclesfield town centre is failing to meet the aspirations of visitors in relation to its retailing and leisure offer. In 2010, the results of a survey of 332 respondents identified that 8 out of 10 people would like to see new shops and a

cinema in the town centre and nearly 7 out of 10 wanted to see new restaurants and a department store⁷.

- 4.15 The town's limited leisure offer means that opportunities for socialising are limited. As a result, this impacts on the town's vitality in the evening.
- 4.16 The lack of a central public space in the town centre limits the type of community events which can be held in the town centre. The Local Plan identifies the Order Land as providing an opportunity to create a "much needed town centre open space".⁸
- 4.17 The town's topography creates challenges for those with mobility problems. The main retail street, Mill Street, has a steep incline, with the lower portion in particular having narrow pavements with no place to sit and rest.

The action taken by the Council

- 4.18 A summary of the steps taken by the Council (and the former Macclesfield Borough Council before it) set out below:

1984 – The first Macclesfield Borough Local Plan was adopted, which allocated most of the Order Land for development for shopping, office and parking.

1997 – The replacement Macclesfield Borough Local Plan was adopted, which identified the need to enhance the town's prime shopping area via new development. The majority of the Order Land remained allocated for redevelopment. The local plan identified the area around Exchange Street as presenting a specific opportunity for development suitable to attract multiple retailers selling comparison goods.

2004 – The third Macclesfield Borough Local Plan was adopted (and remains the current development plan) which identifies that the redevelopment of the Order Land is "important to rejuvenate the area and enhance the existing nature and character of the shopping core". The local plan identifies a "need for larger shop units for multiples and a range of leisure uses" with the Order Land highlighted as an area suitable for both retail and leisure use.

⁷ Broadway Malyan, Macclesfield Economic Masterplan Stage 2 Public Consultation summary report, September 2010, section 2

⁸ Paragraph 10.11, Macclesfield Borough Council Local Plan 2004, page 140

2005 – The Developer’s Brief for Macclesfield Town Centre was prepared by the Council in January 2005. The document sets out the Council’s aims for the development of the Order Land and surrounding land. In particular, the Brief set out the Council’s wish to attract retail provision and a cinema to the Order Land.

In November 2005, in response to the aims set out in the Developer’s Brief and following a tendering process, WBD were chosen by the Council as its “preferred development partner” to work with the Council in achieving these aims.

2007 – The Macclesfield Town Centre Comprehensive Redevelopment Strategy was approved by the Council as guidance for the redevelopment of the town centre, identifying the Council’s desire to consolidate the existing town centre with supplementary development.

On 21 December 2007, a development agreement between the Council and WBD was completed.

2008 – In November 2008, WBD submitted a planning application (which was subsequently withdrawn) for up to 50,000 sq m of A1-A5 floorspace, an 8 screen cinema, a community facility, 60 residential units and up to 1,300 parking spaces on a site of 7.2 ha incorporating the Order Land.

2010 – The Macclesfield Economic Masterplan was prepared by CBRE on behalf of the Council to set out actions to guide future development and to ensure that the benefits to the economy, environment and facilities of the town are maximised.

2011 – The development agreement was varied on 28 October 2011

2013 – The Macclesfield Town Centre Vision has been developed to set out a wider package of complementary measures intended to regenerate the town centre as a whole. The Scheme is a key element of the vision. A number of complementary regeneration initiatives are being progressed in accordance with the vision which are set out below, with the aim of ensuring the town centre as a whole emerges post-development of the Scheme as a strengthened cohesive entity:

- £250,000 has been spent on public realm improvements around the Historic Market Quarter;
- £500,000 Capital Budget has been allocated for further initiatives to support the vision including shop front grants in the town centre;
- Friday Market opened in the Market Place in the Historic Market Quarter;
- Old Town Hall refurbished to allow greater community use; and
- In Town Living team established to encourage and facilitate use of vacant premises for residential purposes.

Planning policy support

4.19 The Scheme complies with national and local planning policy. An overview of the relevant policies is set out below. Relevant extracts from the documents referred to are contained in Appendix 1.

National Planning Policy

4.20 The National Planning Policy Framework (NPPF) published on 27 March 2012 sets out the Government's planning policies for England and explains how these are to be applied.

4.21 Paragraphs 6 and 7 establish that the purpose of the planning system is to contribute to the achievement of sustainable development which has three dimensions: economic; social; and environmental.

4.22 Paragraph 7 identifies the need for the planning system to perform an economic role, including:

4.22.1 contributing to building a strong, responsive and competitive economy by ensuring sufficient land of the right type is available in the right places at the right time to support growth and innovation; and

4.22.2 identifying and coordinating development requirements.

4.23 Paragraph 7 identifies the need for the planning system to fulfil a social role, which includes supporting the creation of a high quality built environment, with

accessible local services which reflect the community's needs and support its health, social and cultural well-being.

- 4.24 Paragraph 7 identifies the need for the planning system to fulfil an environmental role, which includes protecting and enhancing the environment.
- 4.25 Paragraph 9 promotes positive improvements in the quality of the built, natural and historic environment and in people's quality of life including:
 - 4.25.1 making it easier for jobs to be created in cities, towns and villages; replacing poor design with better design; and
 - 4.25.2 improving the conditions in which people live, work, travel and take leisure.
- 4.26 Paragraph 17 sets out core planning principles which include:
 - 4.26.1 encouraging the effective use of land by reusing land that has been previously been developed;
 - 4.26.2 promoting mixed use development; and
 - 4.26.3 focusing significant development in sustainable locations.
- 4.27 Paragraphs 18-22 set out the Government's commitment to economic growth to create jobs and prosperity. The planning system should do everything it can to support sustainable economic growth, plan proactively to meet the needs of business, and to support an economy fit for the twenty-first century. These policies also set out the need to identify priority areas for economic regeneration and environmental enhancement.
- 4.28 Paragraphs 23 and 24 are concerned with ensuring the vitality of town centres. These paragraphs stress the importance of:
 - 4.28.1 promoting competitive town centres;
 - 4.28.2 policies which deliver the management and growth of centres; recognising town centres as the heart of communities;
 - 4.28.3 supporting the vitality and viability of town centres;
 - 4.28.4 providing customer choice and a diverse retail offer;

- 4.28.5 allocating sites suitable to deliver development for town centre uses in town centres where available in preference to other locations and ensuring needs are not compromised by limited site availability; and
 - 4.28.6 planning positively to encourage economic activity where centres are in decline.
- 4.29 Paragraphs 56-58 set out guidance on making places better for people. These identify the importance of development adding to the overall quality of the area, establishing a strong sense of place and safe and accessible environments. They also set out that local authorities should seek to optimise the potential of land to accommodate development.
- 4.30 Paragraphs 69, 70 and 73 consider the role of the planning system in promoting healthy communities. These paragraphs include promoting the provision of high quality public spaces including meeting places to contribute to the well being of communities.
- 4.31 The Scheme is consistent with, and supports the policies contained in, the NPPF because:
- 4.31.1 It would contribute to the achievement of economic, social and environmental sustainable development supporting paragraphs 6 and 7.
 - 4.31.2 It would bring positive improvements to the quality of the built environment, providing new areas of public realm, improved paving, seating and lighting, to improve the conditions in which people take leisure in line with paragraph 9.
 - 4.31.3 It would deliver mixed use development on previously developed land, in a sustainable location in line with paragraph 17.
 - 4.31.4 It would support and encourage economic growth by creating approximately 900 net additional direct FTE jobs post-construction assuming full occupation of the development, and in addition in the region of 250 FTE construction jobs over a two year period, in line with paragraphs 18-22.
 - 4.31.5 It would promote a competitive town centre environment, recognise the town centre as the heart of the community and would support the

town centre's vitality and viability in support of paragraphs 23 and 24. It would seek to ensure the town centre provides customer choice and a diverse retail offer reflecting the individuality of the town centre and would deliver main town centre uses in the town centre, in accordance with paragraphs 18-22. Furthermore, it provides a positive plan for a centre in decline in accordance with paragraph 24.

4.31.6 It would make efficient use of an area which is currently underutilised, in line with the Government's desire to optimise the potential of land to accommodate development (paragraph 58).

4.31.7 It would deliver the Government's expectations that Councils should plan positively for high quality and inclusive design on all development including individual buildings, public and private spaces to promote healthy communities and developments which add to the overall quality of the area (paragraphs 56-58 and paragraphs 69, 70 and 73).

Local Planning Policy

4.32 The relevant saved policies of the Macclesfield Borough Local Plan, adopted in January 2004, are referred to below. The local plan will be replaced by the Cheshire East Local Plan which is currently progressing towards an Examination in Public.

Macclesfield Borough Local Plan 2004

4.33 Chapter 9: Shopping, includes policy S1 which seeks to ensure developments that attract many trips, including shopping, entertainment, leisure and other such uses are normally located in town centres and are of a scale appropriate to the character and function of the particular centre. The aim of this policy is to support vitality and viability of town centres which are dependent on retaining and developing a wide range of attractions and amenities.

4.34 Chapter 10 is specific to Macclesfield Town Centre. It sets out a number of policies which are all designed to enhance the vitality, viability or attractiveness of the town centre:

4.34.1 Policy MTC1 states that the function of the prime shopping area will be consolidated and enhanced. The reason given for this policy is to maintain and enhance the centres vitality and attractiveness in the face of considerable competition elsewhere.

- 4.34.2 Policy MTC2 relates to land off Exchange Street, which includes a significant part of the Order Land. This policy encourages redevelopment principally for A1 Retail uses subject to criteria, including the creation of a "much needed town centre open space" within the allocated area. The explanatory text for this policy sets out that the redevelopment of this area is important in order to rejuvenate the area and enhance the shopping core. It specifically refers to a need for larger shop units for multiples.
- 4.34.3 Policy MTC7 relates to that part of the Order Land to the west of Churchill Way and supports redevelopment here principally for leisure, offices and non food retailing.
- 4.34.4 Policies MTC8 and MTC9 relate to the southern and central parts of the Order Land, south of Roe Street, allocating these areas for redevelopment again principally for A1 retail purposes and/or leisure uses.
- 4.35 Chapter 8: Transport seeks to improve conditions for pedestrians (Policy T3) and to support traffic calming measures (Policy T9).
- 4.36 The Scheme would support the policies in the Macclesfield Borough Local Plan for the following reasons:
 - 4.36.1 By enhancing shopping, entertainment and leisure facilities available to people within the highly accessible town centre, it would improve the vitality of the town centre supporting Policy S1.
 - 4.36.2 The Scheme would consolidate and enhance the prime shopping area supporting Policy MTC1 by delivering larger shop units suitable to attract national comparison retailers, new restaurants and a cinema, as well as an enhanced environment to make Macclesfield more appealing to consumers when compared with other competing destinations and the internet. The Scheme provides for these land uses and associated parking on the land allocated for retail and leisure development in Policies MTC2, MTC8 and MTC9.
 - 4.36.3 The Scheme would deliver an improved entertainment and leisure offer to boost the vitality and viability of the centre, in line with the overriding aim of Chapter 10. Leisure and restaurant uses would be

particularly suitable on the land to the west of Churchill Way as identified in policy MTC7.

4.36.4 The Scheme would provide a new town square in line with the aims of MTC2.

4.36.5 The Scheme would deliver pedestrian improvements, enhancing the environment and improving connectivity around the town centre, supporting policies T3 and T9.

Cheshire East Local Plan Pre-Submission Core Strategy, November 2013

[note: to be updated as draft Core Strategy evolves]

4.37 The Council is currently preparing a new Local Plan for Cheshire East to guide development up to 2030. The new Local Plan will consist of three key documents:

4.37.1 the Core Strategy, which sets out the overall vision and strategy for development and identifies strategic priorities as well as strategic sites and locations to accommodate most new development;

4.37.2 the Site Allocations and Development Policies Document, which will allocate the remaining sites and set out detailed planning policies; and

4.37.3 the Waste Development Plan Document, which will set out policies and sites for dealing with waste.

The Core Strategy is the first of these three documents to be produced in draft form. Production of the other two documents has yet to commence.

4.38 The Core Strategy has been out to consultation as a Pre-Submission draft. Responses to that consultation are currently being considered. It is anticipated that the Core Strategy will be submitted for an examination by the Planning Inspectorate in mid-2014.

4.39 Core Strategy Chapter 6: Strategic Priorities outlines four priorities for the delivery of the Council's vision for Cheshire East. Priority 1 is particularly supported by the Scheme as it refers to promoting economic prosperity by creating conditions for business growth, via a number of routes including: the promotion of the vitality and viability of the borough's town centres; and specifically, by supporting a major regeneration scheme in Macclesfield town

centre to enhance the centre's retail and leisure offer and to improve environmental quality.

- 4.40 Core Strategy Chapter 8: Planning for Growth includes Policy PG1 which sets out a settlement hierarchy identifying Macclesfield as a "Principal Town", where significant development will be encouraged to support revitalisation of the town centre, recognising its role as one of the two most important settlements in the Borough, alongside Crewe.
- 4.41 Core Strategy Chapter 9: Planning for Sustainable Development includes Policy SD1 which sets criteria which development should meet, wherever possible, to ensure that it is sustainable. This includes: prioritising investment and growth in the most accessible and sustainable locations such as Macclesfield; supporting the achievement of vibrant and prosperous town centres; and making efficient use of land and best use of previously developed land.
- 4.42 Core Strategy Chapter 11: Enterprise and Growth includes Policy EG5 which promotes a "town centre first" approach to retail and commercial development. This policy supports the Principal Towns of Crewe and Macclesfield as the main focus for comparison retail development, supported by a range of retail, leisure and other town centre uses that help to ensure that the town centres are vibrant. This policy also sets out support for proposals which help develop the evening and night time economy in the Principal Towns.
- 4.43 Core Strategy Chapter 13: Sustainable Environment includes Policy SE1 which encourages developments which make a positive contribution to their surroundings by a number of mechanisms including: designing places around the needs and comfort of people and not vehicles; innovative and creative design solutions; and via the provision of high quality public realm that enhances conditions for pedestrians and creates opportunities for social interaction.
- 4.44 Core Strategy Policy SE2 of Chapter 13 encourages the efficient use of land including via the appropriate redevelopment of previously developed land.
- 4.45 Core Strategy Chapter 14: Connectivity includes Policy C01 which supports sustainable travel and transport including by guiding development to accessible locations and improving facilities for pedestrians and cyclists.
- 4.46 Core Strategy Chapter 15 identifies "Strategic locations" as areas with the capacity to deliver proposals of strategic importance. This chapter identifies

Central Macclesfield, which includes the Order Land, as Strategic Location 4 (SL4). This location is identified as an area where the Council will look to maximise opportunities for improvement and regeneration and encourages development which (inter alia):

- 4.46.1 Provides for new and improved retail and leisure developments that are in-centre and improve the quality of the shopping experience;
- 4.46.2 Provides commercial uses;
- 4.46.3 Enhances the cultural offer;
- 4.46.4 Supports new restaurants and cafes to increase footfall throughout the evening;
- 4.46.5 Delivers landmark, well designed buildings;
- 4.46.6 Creates a "Heritage Walk" along Churchill Way to link the Heritage Centre with the Macclesfield Silk Museum;
- 4.46.7 Provides appropriate car parking;
- 4.46.8 Improves the public realm;
- 4.46.9 Provides and improves cycling and pedestrian links; and
- 4.46.10 Increases the number of dwellings in the area.

4.47 The Scheme supports the aforementioned elements of the Pre-Submission Core Strategy because:

- 4.47.1 It would deliver a significant enhanced retail and leisure/cultural offer including evening uses and housing, to improve the vitality of the town centre in the day and evening, in a highly sustainable town centre location within one of the borough's "Principal Towns", supporting Strategic Priority 1 and policies PG1, SD1, EG5 and SL4.
- 4.47.2 It would enhance the environment in an area of the town centre which has been identified as currently having a weak urban form detracting from the appearance of the centre supporting policies SE4 and SL4.

- 4.47.3 It would make a positive contribution to the town centre environment, delivering an enhanced public realm and pedestrian linkages with seating, encouraging walking, as well as providing a new town square, creating opportunities for social interaction in support of policies SE1, C01 and SL4.
- 4.47.4 It would make efficient use of previously developed land supporting policies SE2 and SD1.
- 4.47.5 It would deliver the "Heritage Walk", provide landmark buildings, appropriate parking and dwellings in accordance with policy SL4.

Retail Studies

- 4.48 Alongside the aforementioned Planning Policy documents, a number of retail studies have been commissioned to inform the formulation of local planning policy and to assist in determining planning applications. A summary of the key documents is set out below.

Cheshire Retail Study 2007

- 4.49 White Young Green Planning and Design (WYG) was commissioned by Cheshire County Council and five Cheshire boroughs (including the former Macclesfield Borough Council) in 2007 to assess the vitality and viability of town centres across the former county of Cheshire and the anticipated need for future retail and leisure floor space to 2016. In relation to Macclesfield, the study identified a considerable capacity for comparison retailing floor space in the order of 42,800-61,200 sq m net by 2021 and identified immediate capacity for a nine screen cinema, increasing to 14 screens by 2021⁹.

Cheshire Retail Study Update April 2011

- 4.50 In November 2009, WYG was commissioned to undertake an update of the 2007 study to provide evidence to inform the Council's development plan. This update identified that Macclesfield town centre, whilst the second largest centre in the sub-region after Chester in terms of floorspace, ranked after both Crewe and

⁹ Cheshire Retail Study, 2007, Executive Summary page 10

Cheshire Oaks (an out of town designer outlet) in the VenueScore retail ranking of 2010, having dropped 45 places in the ranking between 2007 and 2010¹⁰.

- 4.51 This update identified an anticipated need for further convenience retail floorspace within Cheshire East with the main focus of capacity in Macclesfield¹¹ and estimated that to retain existing market share, additional comparison floorspace over and above that provided for in extant permissions would be needed by 2021¹² which should be focused on centrally located sites in and around the town centre¹³.
- 4.52 The update considered trends in retailing and identified that comparison retailers are seeking to occupy larger units and that investment decisions are likely to be influenced by the scale of commitment from other retailers, with developers increasingly needing to promote large town centre redevelopments to attract high quality retailers¹⁴.
- 4.53 The update recognised that with competing destinations strengthening their offer, there may be further pressure on Macclesfield town centre in the future, leaving the vitality and viability of the centre vulnerable¹⁵ and stated that *"The Council should promote the redevelopment of the existing town centre to reverse current shopping behaviours to out-of-centre destinations through strengthening the comparison goods and leisure offer in the town centre"*¹⁶.
- 4.54 In terms of leisure needs, the update identified capacity for 39 cinema screens across the whole study area to 2026 and a qualitative need to provide new cinema provision in the north of the borough of Cheshire East to improve provision and reduce the need of residents to travel to facilities elsewhere. In particular, it recommended the construction of a cinema in zone 1 (which covers the main urban area of Macclesfield)¹⁷.

**Independent appraisal of retail matters relating to planning application
12/1212M May 2013**

¹⁰ Cheshire Retail Study Update April 2011, page 137, Appendix 3 page 3 and Appendix 4 Table MF07

¹¹ Cheshire Retail Study Update April 2011, Pages vii and viii

¹² Ibid, Page xi

¹³ Ibid Page 137

¹⁴ Ibid Page 4

¹⁵ Ibid Appendix 3 page 14

¹⁶ Ibid Appendix 4 MF 35

¹⁷ Ibid Page xii

4.55 Following the submission of the planning application for the redevelopment of the Order Land (reference 12/1212M), although not required by national planning policy, the Council commissioned an assessment of the proposals by WYG to:

4.55.1 identify the extent of available comparison goods expenditure based on the most up to date economic data;

4.55.2 test the proposals' compliance with relevant retail planning policy; and

4.55.3 assess the likely impact on the town centre.

4.56 This appraisal considered the fact that between 2006 and 2013, Macclesfield town centre's comparison goods market share has declined from 8.6% to 5.5%¹⁸, due to reasons including increasing online sales. It states that Macclesfield should realistically look to achieve and sustain a market share of between 7 and 7.5% and that the proposals contained in the planning application are of an appropriate scale to assist in bringing about this uplift in market share. It concludes that the most significantly adverse outcome for the town centre anticipated would be the continued decline in the centres market share and that if suitable accommodation is not provided in Macclesfield town centre to suit retailers, this is only likely to lead to operators locating in less sustainable locations, which in turn would realise fears over continued decline.

5. THE PROPOSALS

Evolution

5.1 In 2005, the Council commenced a competitive tender process and invited developers to submit their proposals for the redevelopment of the Order Land. The tender process included a number of the selected developers exhibiting their proposals at a public exhibition. Following WBD's appointment as preferred development partner in 2006, a comprehensive programme of consultation and stakeholder engagement has been undertaken to inform the proposed scheme design and layout.

5.2 The main methods of engagement and information sharing included:

¹⁸ White Young Green Appraisal of Retail Planning Matters for planning application 12/1212M, paragraph 5.36

- 5.2.1 a series of working groups charged with providing input on the economic, transport, retail and masterplanning elements of the work programme;
 - 5.2.2 workshops and briefings aimed at encouraging the expression of a broad range of local opinion;
 - 5.2.3 public exhibitions which introduced specific proposals to the general public for their comments, feedback forms were provided and the results reported to the Planning Authority ;
 - 5.2.4 a series of briefings with key stakeholders to review design options, refine masterplan details and test scheme assumptions;
 - 5.2.5 newsletters produced that typically provided a summary of the key characteristics of the scheme, issues that were still being considered and ways in which interested parties could comment;
 - 5.2.6 project web-site that provided updates on the proposals and where interested parties could leave comments; and
 - 5.2.7 regular press releases and articles in the local and national publications to ensure as wide an audience as possible was aware of the proposed development and its evolution.
- 5.3 The first phase of consultation and engagement was carried out between December 2005 – October 2008 and included:
- 5.3.1 Two public exhibitions;
 - 5.3.2 Briefings with residents and businesses on Water Street, Roe Street, Duke Street, Wardle Street, Samuel Street, Mill Street, Park Lane, Exchange Street and Castle Street;
 - 5.3.3 Briefing sessions with representatives of the Heritage Centre and Senior Citizens Hall;
 - 5.3.4 Meetings with wider local businesses and the Chamber of Commerce;
 - 5.3.5 Briefing sessions with local members;
 - 5.3.6 Discussions with local youth groups;

- 5.3.7 Newsletters sent to town centre residents providing information on the proposals, timetable for submission of the planning application and ways in which comments could be made; and
 - 5.3.8 Local press briefings and articles in local newspapers.
- 5.4 During the first phase of consultation the emphasis was on:
- 5.4.1 raising the awareness of the local community of the plans to regenerate the town centre and generating interest in the potential for change;
 - 5.4.2 establishing contact with key stakeholders and informing a wide audience of the objectives of the regeneration programme and providing opportunities to discuss work in progress with WBD and the masterplanning team;
 - 5.4.3 establishing agreed common principles within the partnership team and in discussion with the Planning Authority and other technical specialists testing design options, technical issues and scheme parameters;
 - 5.4.4 briefing key stakeholders and local representatives of all significant changes to the initial competition masterplan and responding to feedback;
 - 5.4.5 receiving and recording comments from a wide cross section of the community on the emerging scheme design options, layout, quantum and form of the proposed development; and
 - 5.4.6 identifying how the proposed scheme meets statutory requirements and Local Plan criteria.
- 5.5 In November 2008, WBD submitted a planning application for up to 50,000 sqm of A1-A5 floorspace, an 8 screen cinema, a community facility, 60 residential units and up to 1,300 parking spaces on a site of 7.2ha including the Order Land (**"the Original Proposals"**).
- 5.6 Concerns were raised during the consultation process regarding the scale of buildings, overall floorspace and the design. At the same time, changing market conditions impacted on the overall viability and delivery of the scheme. Consequently, in June 2011, WBD withdrew the Original Proposals prior to

determination in order to consider alternative options that addressed the concerns raised by third parties and to ensure that the proposals would be deliverable.

- 5.7 In March 2012, WBD submitted a second planning application for a smaller development for retail space (A1-A2) uses up to 21,370 sqm gross external floor area (GEA (230,000 sq ft); restaurants and cafes; drinking establishments and hot food takeaway (A3, A4 and A5 uses) up to 2,325 sqm (25,000 sq ft GEA); B1 use up to 235 sqm (2,500 sq ft GEA); up to 10 residential units for private sale; a cinema (D2) on Churchill Way (up to 3,255 sqm (35,000 sq ft) GEA); two car parks with up to 810 spaces (multi storey up to 245,000 sq ft); additional street parking for up to 63 cars (additional out of hours parking on the new Town Square for up to 13 cars may also be provided) ("**the Amended Proposals**").
- 5.8 Further extensive consultation informed the submission of the Amended Proposals, which included:
- 5.8.1 a series of working groups charged with providing input on the economic, transport, retail and masterplanning elements of the work programme and reviewing the options as they emerged;
 - 5.8.2 workshops and briefings aimed at encouraging the expression of a broad range of local opinion – issues considered included scheme design, layout and form of public spaces, access and servicing arrangements and how the scheme could better reflect the specific characteristics of Macclesfield;
 - 5.8.3 a public exhibition which introduced specific proposals and design options to the general public for their comments and to identify and additional concerns/considerations not addressed by the scheme options;
 - 5.8.4 a series of briefings with key stakeholders to refine masterplan and scheme design areas;
 - 5.8.5 project website that provided regular updates on development proposal position and engagement activity – also provided opportunity to comment on proposals.
 - 5.8.6 regular press briefings to help ensure a wider audience were kept informed.
- 5.9 The consultation outcomes resulted in key amendments, including:

- 5.9.1 a reduction in the development area and quantum of development to be more in keeping with the scale and form of the town centre;
 - 5.9.2 a reduction in the height and scale of the building blocks to respond to existing street pattern and adjoining premises;
 - 5.9.3 a payment provided towards the refurbishment of the existing community centre facility in the town centre;
 - 5.9.4 provision of new car parking on Water Street to replace parking in this area which would be lost as a result of the development;
 - 5.9.5 the retention of facades and roofs of three of the residential terraces on Roe Street;
 - 5.9.6 the provision of a heritage trail on Churchill Way/Wardle Street and Park Lane to link the Heritage Centre with the Silk Museum;
 - 5.9.7 the introduction of raised grassed areas to Mulberry Square and additional tree planting across the site to provide softer edges and green elements within the town centre.
- 5.10 Extensive consultation post-submission of the Amended Proposals, including public exhibitions, focused briefing sessions, stakeholder group briefings, and statutory and informal periods for receiving written comments resulted in a number of further revisions being made to the proposals which were submitted to the Council in December 2012 and were subject to an additional period of consultation. The principal amendments include:
- 5.10.1 Comprehensive redesign of building elevations resulting in reduced heights of some buildings including the cinema and department store;
 - 5.10.2 More green elements created across the development area including Mulberry Square, Roe Square and on Park Lane;
 - 5.10.3 The management suite reduced to 65 sqm GEA from up to 235 sqm GEA;
 - 5.10.4 The floor area of the cinema increased by 1,000 sqm GEA to take account of mezzanine floor level operations;
 - 5.10.5 The floor area of the residential element of the development increased by 138 sqm to 1,326 sqm (14,273sqft). The residential element unit number remains unchanged at 10 units (eight 2-bed and two 4-bed units).

- 5.10.6 A replacement community facility of up to 450 sqm GEA included in the plan in the event that the Council is unable to procure the delivery of alternative premises off-site in accordance with the required time frames;
- 5.10.7 The cinema car park increased to 100 spaces, including 5 disabled and 5 parent and child spaces;
- 5.10.8 Evening parking for up to 13 cars on Mulberry Square removed.

Planning position

- 5.11 On 6 September 2013 WBD secured detailed planning permission (reference 12/1212M) for the demolition of buildings to enable the development of a comprehensive mixed-use scheme, to include: A1-A5 retail space (22,865 sq m GEA, of which up to 2,325 sq m is A3-A5 and up to 6,430 sq m is a department store); cinema (4,255 sq m); office/community space (510 sq m); 10 residential units; 2 car parks providing up to 818 spaces; additional street parking for 62 cars; new town square (Mulberry Square) and associated highway and public realm works ("**the Permission**").
- 5.12 Eskmuir Securities Limited, the owner of the existing Grosvenor Shopping Centre in Macclesfield, had requested the Secretary of State to call in the application by way of letter dated 28 June 2013. The grounds for the request included, inter alia, the consequences of the proposals on the centre of Macclesfield. The Secretary of State, having considered the impact of the proposals, confirmed in a letter of 30 July 2013 that the application should not be called in and as such should be determined at a local level.
- 5.13 The main elements of the Permission are summarised below:

Cinema, housing and restaurants

- 5.14 The new cinema building would front Churchill Way with a footprint of 78 metres by 46 metres. The cinema would provide nine screens and a cafe/foyer area which would sit partly above four restaurants accessed off Churchill Way and partly over a car park.
- 5.15 To the rear, a new terrace of 10 dwellings is proposed which would front onto Water Street. Eight of these would be two storeys high and two would be three storeys high.

- 5.16 Car parking (100 spaces – to include 5 disabled and 5 parent and child spaces) would be provided below the cinema. Accessed from Great King Street, this car park would be part surface parking and part undercroft below the cinema building.
- 5.17 Additional on-street parking would also be provided around the cinema, housing and restaurants in the form of 26 spaces on Water Street and 29 spaces on Wellington Street. A new shared surface is also proposed in front of the cinema to allow easy access to and from the existing retail and commercial units.

Town Square

- 5.18 A new town square (to be known as Mulberry Square) is proposed on part of the existing Exchange Street car park to the rear of the Heritage Centre. This would measure approximately 35 metres by 43 metres and form a focal point for the redevelopment as well as creating an improved setting for the Heritage Centre. Ground levels would be altered to ensure that there is an opportunity to integrate the terrace adjacent to the Heritage Centre with this new space. The square would provide a large green area with tree planting adjacent to Churchill Way. Pedestrian routes would be provided on key desire lines. Seating and lighting would also be provided.
- 5.19 A new retail building is proposed to the east of the square, which would have an active ground floor frontage onto the new public square.
- 5.20 The existing ramp to the side of the vacant TJ Hughes building would be removed to allow for an enhanced pedestrian environment. This area would become a major pedestrian link for the town and the ramp will be removed and replaced with a series of steps in keeping with the enhanced landscape design for this area.
- 5.21 To the north of this new square would be a pavilion café with an external seating area.
- 5.22 There is currently a pedestrian walkway from Mill Street to the Exchange Street car park which measures approximately 25 metres by 25 metres. This would be enhanced with new public realm and a children's play area.

Retail Street/Department Store

5.23 The demolition of three properties on Roe Street is required to provide an appropriate link from the square in the north to the development south of Roe Street on the existing Duke Street car park.

5.24 Twenty new units would be provided on the new street (to be called Silk Street) including a department store sited at the southern end. Eighteen of the new units would be two storeys whilst the department store would effectively be a three storey building. Two floors would be retail and the lower ground floor (which would be accessed from Churchill Way) would contain the main servicing area.

Multi Storey Car Park

5.25 A new 6-storey car park which would provide 718 car parking spaces would be located on the site of an existing warehouse. A bridge would provide a level access from level 3 of the new car park through to Silk Street which would be designed to comply with the requirements of the Equality Act 2010.

Public Realm Improvements

5.26 A significant amount of public realm works is proposed, in addition to those in the two public squares and shared surface.

5.27 New surfacing would be provided on the east side of Churchill Way, the west side of Park Lane, and along Wellington Street. Tree planting is also proposed together with new distinctive street furniture to forge an identity for the development. Public art would also be used to enhance public spaces, engender civic pride and strengthen local identity.

5.28 The Permission was granted subject to a section 106 agreement. In brief, the obligations are as follows:

5.28.1 Payment of a contribution of £1,034,807 towards the cost of providing a meeting or events venue serving the local community which can function as a replacement for the existing senior citizens hall on the site.

5.28.2 A £100,000 contribution towards public realm and environmental improvements.

5.28.3 A £31,000 contribution towards the cost of making traffic regulation orders associated with the development.

- 5.28.4 Operation of a Travel Plan including ongoing monitoring and review of the Travel Plan and the appointment of a Travel Plan Coordinator and the payment of £10,000 as a contribution towards the cost of implementing and monitoring the Travel Plan.
 - 5.28.5 A £5,000 contribution towards the cost of providing an on-street coach stop.
 - 5.28.6 Payment of £25,000 as a contribution towards the cost of providing street signage for pedestrian and cycle wayfinding.
 - 5.28.7 Payment of a £21,152 contribution towards works associated with monitoring and protecting air quality.
 - 5.28.8 Implementation of a local procurement protocol to provide opportunities for local businesses to bid/tender for the provision of goods and services to the development as well as an employment and skills plan to make employment and training opportunities available to local people during the construction and operation of the development.
- 5.29 All of the obligations are considered to be necessary to make the proposals acceptable in planning terms; directly related to the proposals; and fairly and reasonably related in scale and kind to the proposals.
- 5.30 Alongside this, WBD have secured conservation area consent (reference 12/1213M dated 6th September 2013) for the demolition of 27, 29 and 31 Roe Street and the alteration/partial demolition of 23 and 25 Roe Street, with the front façade and roof to be retained.

6. THE JUSTIFICATION FOR THE USE OF COMPULSORY PURCHASE POWERS

Does the purpose for which the land is being acquired fit in with the adopted (and draft) planning framework for the Order Land?

- 6.1 As set out in Section 4, the purpose for which the Order Land is being acquired supports the delivery of key national and local planning policies including local emerging planning policy.

Public benefits

- 6.2 The Council is satisfied that the redevelopment of the Order Land will make a significant contribution to the improvement of the economic, social and

environmental well-being of Macclesfield and the wider area through the implementation of the Scheme. In particular, it is considered that the Scheme will contribute to the improvement of the economic, social and environmental well-being of the areas by the delivery of the following public benefits:

Economic Benefits

- 6.2.1 The Scheme will deliver a significant number of larger format modern retail units which will be attractive to retail and leisure operators. This will attract operators into the town centre rather than competing out of town destinations. This will arrest the ongoing decline of the town centre and will claw back trade and increase footfall which will benefit existing businesses.
- 6.2.2 The Scheme will create much needed jobs in an area where there are recorded levels of claimants for Job Seekers Allowance above the national average. The development authorised by the Permission is predicted to create in the region of 900 net additional full time jobs, with around 250 direct jobs during the construction phase over a two year period and an estimated further 90 "spin off" FTE jobs within the local area. A local procurement protocol and employment and skills plan secured via the s.106 agreement will ensure that opportunities for jobs and training are targeted at the local area.
- 6.2.3 It is anticipated that the Scheme will act as a catalyst to stimulate further inward investment in the locality of the Order Land¹⁹.

Environmental Benefits

- 6.2.4 The Scheme will make much more efficient use of prime town centre land. In turn, this will reduce the need to develop greenfield sites with consequential environmental benefits;
- 6.2.5 The Scheme will enhance the appearance of currently visually poor locations and the setting of the Grade II* listed Heritage Centre, which is one of Macclesfield's most prominent heritage buildings, through the creation of a new public square, increasing pride of place and public perception of the town centre.

¹⁹ CBRE Economic Masterplan and Delivery Plan, page 71

- 6.2.6 The Scheme will enhance the pedestrian experience along and across Churchill Way and Exchange Street, improving connectivity, whilst retaining reasonable movement patterns.
- 6.2.7 The Permission secures an additional £50,000 for works outside the Order Land to support initiatives being taken forward as part of the Town Centre Vision and a further £25,000 for improved signage within the town centre.

Social Benefits

- 6.2.8 The Scheme will significantly enhance the retail offer to better cater for the retail needs of the whole community. A department store and additional retailers will provide comparison goods which are not currently available in the town centre and which are not readily accessible by public transport, which were identified as desired by a significant majority of respondents in a 2010 public consultation²⁰.
- 6.2.9 The Scheme will enhance the town's leisure offer and opportunities for socialising in the evening as well as during the day. In particular, the provision of a cinema and restaurants as proposed in the Permission will address the aspirations of the substantial majority of respondents in a 2010 public consultation²¹.
- 6.2.10 By enhancing the public realm with new street, spaces, seating and meeting places, designed to meet the requirements of the Equalities Act, the Scheme will provide new and enhanced areas for socialising and outdoor community events for the whole community to enjoy.
- 6.2.11 By improving the facilities in the town centre, the Scheme will make the town centre more attractive as a residential location, encouraging further development and population growth in a highly sustainable location.

Financial viability

- 6.3 A development agreement was entered into between WBD and the Acquiring Authority on 21 December 2007, with a subsequent Deed of Variation entered into on 28 October 2011 (**"the Development Agreement"**).

²⁰ Broadway Malyan Macclesfield Economic Masterplan Stage 2 Public Consultation summary report September 2010

²¹ Broadway Malyan Macclesfield Economic Masterplan Stage 2 Public Consultation summary report September 2010

Barratt Developments PLC provide a guarantee to the Council of WBD's obligations under the Development Agreement, subject to agreed financial caps on the Guarantor's liability. Under the Development Agreement, the Acquiring Authority has agreed (subject to the statutory and legal requirements being satisfied and the financial viability of the Scheme being demonstrated) to use its compulsory purchase powers to complete the assembly of the Order Land. WBD has agreed to fund the compulsory purchase process including any compensation payments and has obligations to progress the development.

6.4 WBD is committed to proceeding with the Scheme and has many years of experience and a solid proven track record of delivering schemes of this nature. WBD are major commercial property developers and have undertaken town centre developments in:

6.4.1 Wrexham – a mixed use town centre regeneration delivered in partnership with Wrexham County Borough Council. The scheme provides c.400,000 sq ft of retail and leisure floorspace including a department store, cinema and 48 residential units and was completed in October 2008;

6.4.2 Royal Leamington Spa – development at Regent Court, which is located in the conservation area and includes the restoration of the Grade II* Listed Regent Hotel. It also comprises 12,000 sq ft of retail and leisure floorspace, together with 132 apartments and was completed in 2005;

6.4.3 Bishops Stortford – a mixed use town centre regeneration delivered in partnership with East Hertfordshire District Council. Jackson Square provides 100,000 sq ft of new retail floorspace in Bishops Stortford town centre, together with 190 residential units and restaurants;

6.4.4 Harlow – a joint venture with Harlow Council and English Partnerships, The Water Gardens delivered a major mixed use regeneration in Harlow Town Centre, including a foodstore, retail, restaurant and leisure accommodation and new Civic Offices.

6.5 As a subsidiary of Barratt Development plc, WBD has the cash resources and balance sheet to promote and deliver this project and is capable of financing the total development costs. All the funding to date has been provided from the cash resources of WBD and the commitment to date exceeds £1.9M. WBD will

continue to fund the development until work starts on site. At a future date, WBD cash resources may be augmented by the addition of external senior debt or institutional funding.

- 6.6 The development timetable contemplates that the tender of the build contract and appointment of a contractor will progress throughout 2014 and will be followed by the procurement of the building contractor. Subject to securing site assembly, works are anticipated to commence on site in Autumn 2016, with completion in 2017.
- 6.7 For the Scheme to be commercially viable and successful it is essential to secure pre-lettings to a department store and cinema as key anchor tenants. WBD has secured lettings to Debenhams and Cineworld and exchanged conditional agreements for lease with both parties. Further pre-lettings have been exchanged on a conditional basis with Frankie & Bennys and Prezzo and negotiations are progressing with a range of other multiple retailers.
- 6.8 Subject to acquiring the land and interests required to deliver the Scheme, the Council and WBD are in a position to proceed with the proposals. Planning permission has been obtained and this is detailed in section 5. An application to stop up parts of the public highway necessary to enable the development to proceed will be made shortly.
- 6.9 It will be necessary to close Duke Street car park (300 car parking spaces and a coach parking bay for up to three coaches), Churchill Way car park (276 car parking spaces) and Exchange Street car park (130 car parking spaces) to enable the Scheme to proceed. Pursuant to sections 32 and 35 and Schedule 9 of the Road Traffic Regulations Act 1984 the Council can approve and authorise for consultation amendments to the Macclesfield (Off Street Parking Places) (Civil Enforcement and Consolidation) Order 2008. The Council will promote amendment orders to remove these car parks from the list of parking places within Macclesfield to enable development to proceed in accordance with WBD's programme. The order will be advertised and consultation responses will be considered before deciding whether to proceed with the order. The order can be processed in accordance with a timetable which will cause no impediment to the implementation of the Scheme.
- 6.10 There are no other legal impediments to the Scheme proceeding.

Could the purpose be achieved by any other means?

- 6.11 No alternative proposals have been identified as part of the lengthy consultation process as a means of delivering the Council's vision for the regeneration of the town centre and the delivery of the planning and retail policies for Macclesfield. The proposals have been through a number of iterations in order to best achieve the Council's vision for Macclesfield. However, following extensive consultation between the Council and WBD and other key stakeholders, it was concluded that the Scheme would best achieve the Council's vision by delivering a modern shopping experience, seamlessly integrating into the rest of Macclesfield Town Centre. There is no alternative location within the existing town centre with the critical mass to enable a scheme of this size to come forward and provide the modern unit reconfiguration required by many national retailers.

Human Rights Considerations

- 6.12 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with rights protected by the European Convention on Human Rights ("**the Convention**").
- 6.13 The position is summarised in paragraph 17 of Part 1 of the Memorandum to the Circular, which states that a compulsory purchase order should only be made where there is a "compelling case in the public interest". The Circular makes it clear that an acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. In making this assessment, an acquiring authority should have regard, in particular, to the provisions of Article 1 of the First Protocol and Article 6 of the Convention and, in the case of a dwelling, Article 8 of the Convention.
- 6.14 Article 1 of the First Protocol states that

"...Every natural or legal person is entitled to peaceful enjoyment of his possessions... no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law..."

- 6.15 Whilst occupiers and owners in the Order Land will be deprived of their property if the Order is confirmed, this will be done in accordance with the law (i.e. Section 226 of the Town and Country Planning Act 1990 and the Acquisition of Land Act 1981). The Order is being pursued in the public interest as required by Article 1 of the First Protocol. The public benefits associated with the Scheme

are set out at Section 5 of this document. The Council considers that the Order will strike a fair balance between the public interest in the implementation of the Scheme and those private rights which will be affected by the Order.

6.16 Article 6 of the Convention provides that:

"In determining his civil rights and obligations... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

6.17 The proposals have been extensively publicised and consultation has taken place with the local community and interested parties. All those affected by the Order will be formally notified and will have the right to make representations and/or objections to the Secretary of State and will be heard at a public inquiry, subject to the usual procedure rules. This statutory process and associated right for those affected to pursue remedies in the High Court (where relevant) are compliant with Article 6.

6.18 Article 8 of the Convention states that:

"Everyone has the right to respect for his private and family life, his home and his correspondence... interference is justified, however, if it is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

6.19 The Council considers that such interferences as may occur with the making and implementation of the Order are in accordance with the law, pursue a legitimate aim (namely the economic well-being of the areas and/or the protection of the rights and freedoms of others) and are proportionate having regard to the public benefit that the scheme will bring which will benefit the economic well-being of the area. The interferences are also proportionate having regard to the alternative means of regenerating the area.

6.20 Those directly affected by the Order will also be entitled to compensation which will be payable in accordance with the Compensation Code and assessed on the basis of the market value of the property interest acquired, together with disturbance (i.e. reasonable moving costs and costs/losses directly related to the compulsory acquisition) and statutory loss payment (eg home loss

payments). The reasonable surveying and legal fees of those affected will also be paid by the Council. The Compensation Code has been held to be compliant with Article 8 of the Convention and Article 1 of the First Protocol.

- 6.21 The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and the community as a whole". Both public and private interests are to be taken into account in the exercise of the Council's powers and duties. Similarly, any interference with Article 8 rights must be "necessary in a democratic society".
- 6.22 In pursuing the Order, the Council has carefully considered the balance to be struck between the effect of acquisition on individual rights and the wider public interest in the redevelopment of the Order Land. Interference with Convention rights is considered by the Council to be justified here in order to secure the economic regeneration, environment and public benefits which the scheme will bring. With regard to the residential occupiers, it should be remembered that the Council will only exercise its powers under the Order in the event that negotiations are not successful.
- 6.23 The Council is satisfied that the redevelopment of the Order Land will have a significant positive impact on the social and economic well-being of the local population as the redevelopment will revitalise Macclesfield town centre and provide much needed improvements to retail offer, leisure facilities and will contribute towards employment opportunities in the area both during and after construction. Compulsory purchase of third parties' land and interests within the Order Land is necessary to allow this comprehensive redevelopment to proceed and for these benefits to be delivered.
- 6.24 As such, the Council has concluded that the interference with the human rights of those parties with an interest in the Order Land is justified in the public interest and that the use of compulsory purchase powers is proportionate. In the event that objections are made a public inquiry may be held and those whose interests are acquired under the Order, if confirmed, will be entitled to compensation as provided under national law.

7. **Negotiations and Relocations**

- 7.1 Attempts have been made by Cushman and Wakefield, agent for WBD, to acquire the outstanding interests by negotiation. Negotiations will continue but

it has become apparent that it is unlikely that all outstanding interests will be acquired by negotiation in the timetable required for the Scheme to proceed. The Order has been made in the event that attempts to acquire by agreement fail and will allow negotiations to progress in tandem alongside the compulsory purchase process.

- 7.2 All owners, tenants and occupiers affected by the Order have been contacted and have been invited to enter into discussions with WBD via their agent, Cushman and Wakefield, with a view to agreeing appropriate terms for acquisition and for payment of compensation and, where appropriate, to discuss options for relocation. WBD will continue to seek to agree acquisitions of land and interests prior to and after confirmation of the Order up to the point at which the Council decides to exercise its powers under the Order.

Need for the Order

- 7.3 All of the land and rights over land included in the Order are required for the Scheme to proceed. In a number of cases, leasehold interests and tenancies have been included in the Order Land where the Council/WBD have the right to break the lease or terminate the lease subject to the service of a notice under the Landlord and Tenant Act 1954 and secure possession in time for the commencement of the Scheme. Such interests must nonetheless be included in the CPO in the event that the exercise of landlord rights proves insufficient or does not allow the interests to be acquired in the timetable necessary to enable the Scheme to proceed.

8. OTHER MATTERS

Open space

- 8.1 There is one area of existing open space within the Order Land (plot 33). It is the intention of the Council to apply for a certificate under section 19 of the Acquisition of Land Act 1981 to authorise the acquisition of this land without the need for the giving of exchange land and without the need to go through special parliamentary procedure. The application would be made to the Secretary of State at the same time as the CPO would be submitted for confirmation.
- 8.2 Plot 33 will form part of a new area of public open space to be created, known as "Mulberry Square". This is a longstanding policy aspiration of the Council as

identified in Policy MTC2 of the Macclesfield Local Plan. As such, the land will be improved and continue to be used as public open space.

Heritage

- 8.3 There are a number of designated and non-designated heritage assets both in, and in close proximity to, the Order Land. Whilst there are no listed buildings within the Order Land itself, it surrounds two listed buildings, namely the Grade II* Macclesfield Sunday School building on Roe Street and the associated Grade II David Whitaker memorial. There are a number of other listed buildings in the vicinity of the Order Land, including the Salvation Army building on Roe Street and the former Macclesfield Public Library, the Silk Museum and Paradise Mill, all on Park Lane.
- 8.4 There are four conservation areas in the vicinity of the Order Land. Part of the Order Land lies within the Christ Church Conservation Area (on Roe Street and Churchill Way). Park Green Conservation Area bounds the southern part of the Order Land and the High Street Conservation Area and Macclesfield Town Centre Conservation Areas lie approximately 100 metres and 110 metres to the south east and north respectively.
- 8.5 Conservation area consent has been obtained as appropriate as detailed in paragraph [5.29].
- 8.6 In addition, there are several non-designated heritage assets within and surrounding the Order Land including a number of locally listed buildings, as well as many other Regency and Victorian buildings.

Views of the Government departments

- 8.7 *Complete as appropriate.*

Rights, easements, etc

- 8.8 It is intended that a General Vesting Declaration (GVD) or General Vesting Declarations will be made by the Acquiring Authority in respect of the Order Land in the event that the Order is confirmed by the Secretary of State. It is also the intention of the Acquiring Authority that all easements, covenants, rights and other interests in the land included in such a GVD shall be acquired/overridden. Where rights are being acquired/overridden, WBD will attempt to incorporate re-provision of these rights as far as possible as part of

the Scheme. Compensation will be paid accordingly. Mortgages and rent charges are to be dealt with in accordance with the relevant provisions of the Compulsory Purchase Act 1965.

- 8.9 The oversailing rights to be acquired relate to the swing of a crane jib during the construction of the development. Rights are required over the adjacent highways and a number of properties as follows: 9 and 11 Samuel Street; 7-21 and 33-47 (odd) Roe Street; 39 Duke Street; Salvation Army Citadel, Roe Street; and Majestic Wine and former Al Murad Tile Shop at 34-44 Roe Street.
- 8.10 It will be necessary to relocate the delivery arrangements to the Prince of Wales Public House and the rear access to the Roe Street properties numbers whilst paving works are undertaken.

Related orders

- 8.11 A related highways order is required to facilitate the delivery of the scheme proposals. The Developer will be making an application to the Secretary of State pursuant to section 247 of the Town and County Planning Act 1990 to stop up existing highways within the Order Land and in turn provide new and improved public highway.
- 8.12 Highway works will take place at the junction of Samuel Street and Churchill Way and the existing cul-de-sac will be reconfigured to provide a new turning head.
- 8.13 It is contemplated that if required, a joint public inquiry will be held into the Order and the stopping up order.

9. CONCLUSION

- 9.1 In pursuing this Order, the Council has carefully considered the balance to be struck between the effect of acquisition on individual rights and the wider public interest in the redevelopment of the Order Land. Interference with Convention rights is considered by the Council to be justified here in order to secure the economic regeneration, environmental and public benefits which the Scheme will bring.
- 9.2 The Council is satisfied that the redevelopment of the Order Land as part of the comprehensive Scheme will have a positive impact on the social, environmental and economic well-being of the area as the redevelopment will provide an

overall improvement in the quality of life for local residents. Compulsory acquisition of individuals' property situated within the Order Land is necessary to allow this comprehensive redevelopment to proceed and for these benefits to be delivered.

9.3 Due to the substantial public benefit which would arise from the implementation of the Scheme, it is considered that the use of compulsory purchase is necessary and proportionate and that there is a compelling case in the public interest for the making and confirmation of the CPO. It is considered that the CPO does not constitute any unlawful interference with individual property rights. The CPO process enables objections to be submitted and a public inquiry to be held to consider these objections. Those parties directly affected by the CPO will be entitled to compensation in accordance with the statutory compensation code.

10. **COMPULSORY PURCHASE BY NON-MINISTERIAL ACQUIRING AUTHORITIES RULES 1990**

This Statement of Reasons is not a statement under Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007.

11. **CONTACTS**

11.1 Owners and occupiers of properties affected by the CPO who wish to progress discussions for the acquisition of their interest should contact[] .

11.2 Anyone wishing to discuss matters with the Council regarding its promotion of this CPO should contact[] .

11.3 Any affected person wanting clarification on the procedures for the CPO and any specific legal queries should contact []

12. **LIST OF DOCUMENTS**

12.1 In the event of a public inquiry or written representation procedure, the Council intends to refer to or put into evidence the following documents, plans and maps:

12.1.1 []

12.2 The Council may also refer to other documents in order to address any objections made to the CPO.

APPENDIX 1

Planning Policy

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	4 th March 2014
Report of:	Head of Environmental Protection and Enhancement
Subject/Title:	Notice of Motion – Garden Waste
Portfolio Holder:	Cllr David Topping, Environment

1.0 Report Summary

- 1.1. Council resolved at its meeting on 12 December 2013 that a motion concerning the criticism of the recent decision made in relation to the extension of the garden waste winter closedown period be referred to Cabinet. This report facilitates Council's referral.
- 1.2. The extension of, the garden waste winter close down period was a strategic decision taken by the Council in accordance with a variety of service improvement measures identified for the service within the Council's Major Change Programme. Consideration was given to improvements that would both improve the effectiveness of the service whilst at the same time making a significant contribution to improving our environment. Annual data collected by the service confirmed that the garden waste collected in the winter months was significantly less than the other months in the year, resulting in the Council's fleet of vehicles emptying predominantly empty bins for the majority of users. Currently, more than a third of councils in England are charging their residents for collecting garden waste with a significant number now considering introducing charges in the future. The decision taken by the Council to extend the close down period was in preference to introducing a charge for the service. The closure period has helped to deliver a financial saving whilst at the same time reducing the Council's carbon footprint due to the reduced vehicles in operation. During the early stages of introduction, the Council increased the Customer Services personnel to assist the residents with any concerns. The issues and concerns were reviewed and helped influence the proactive measures taken to further re-assure residents why the changes were needed, along with the short-term concessions promoted by the Portfolio Holder for Environment. The most significant being, the announcement that for a short period of time garden waste could be deposited within their black bin. This action was positively received by residents and the local media. The Portfolio Holder has also committed

to arranging a review of the benefits of the extension period once the service recommences and the full benefits are realised.

Recommendation

- 2.1. That Cabinet consider and refute the merits of the motion presented (“This Council is critical of the recent decisions made concerning the collection of recyclable garden waste”). Responding to the merits of the change, in preference to other alternative service improvement options.

3. Reasons for Recommendations

- 3.1 To enable Cabinet to consider the matter raised in the motion, and to propose further actions in relation to the next garden waste suspension period in 2014/15.

4. Wards Affected

- 4.1 All wards

5.0 Local Ward Members

- 5.1 All Ward Members

6.0 Policy Implications

- 6.1 The Council’s three-year plan budget principles – “We will ensure that those who provide services, whether in-house or externally, give real value for money”.
- 6.2 The Council’s Business Plan identifies efficiency savings linked to Waste Management services (Priority 6. Redefining the Council’s role in core place-based services - 6.4: Determine future delivery model for waste management services).

7.0 Financial Implications

- 7.1 In order to meet stringent financial targets the Council has detailed cost savings across all council services as part of the 3-year business plan. Within Waste Services, target savings of £2.5m have been identified over this period.
- 7.2 The full savings summary, detailed modeling and analysis was contained within appendices to the June 2013 Cabinet report.
- 7.3 The financial savings associated with the extended suspension of the garden waste service were initially identified within the June 2013 report and then further refined as more detailed work was undertaken as part of the service efficiency project. The full saving will be

confirmed once the service is reinstated and all benefits/costs can be determined.

8.0 Legal Implications

- 8.1 The Council currently collects the waste from residential properties and uses private facilities to dispose of the green waste collected. Contained within the disposal contract are conditions that give the Council the right to require a change to the terms of the Contract.
- 8.2 Extending the period of garden waste non-collection from 6 weeks to 17 weeks impacted on the payments made to the service provider. In the report to Cabinet in June 2013, this was considered and acknowledged. It is expected that further benefits will be realised when the existing arrangement is renewed as part of the long term waste disposal procurement project.

9.0 Risk Management

- 9.1 There were a number of risks associated with the extended suspension of the garden waste service and these are detailed along with mitigating actions as a part of the Project governance. However, those listed below represent the highest profile risks.
- 9.2 Early and continued engagement with trade unions and the existing workforce leading up to and during the suspension period was essential to successfully delivering the outcomes of the review.
- 9.3 It was anticipated that the extended suspension period for the service would have reputational challenges for the Council. In recognition of this, a detailed communications plan was developed and implemented. The plan focused upon communicating in advance the planned changes and taking a pro-active approach to dealing with individual enquiries received. Complaints peaked during the first three weeks of introducing. Overall the communications plan was deemed successful, with less than 3% complaints/enquiries generated from the total number of properties served by the service.
- 9.4 Notwithstanding the actions identified in 9.3 above, the service acted upon advice received from Communications, Media and Customer Services, informing residents prior to implementation of the changes and when they were due to take place from. The Council also organised additional Customer Services personnel to take feedback and complaints from the public which was reviewed during the period leading up to and following the garden waste suspension. The data collected during this period, helped influence the pro-active measures taken to further re-assure residents why the changes were needed along with the short-term concessions promoted by the Portfolio Holder for Environment, allowing a temporary relief, giving residents the opportunity to utilise space within their black bin to take any surplus

green waste during the early part of December 2013. This action was positively received by residents and the local media. The Portfolio Holder has also committed to arranging a review of the benefits of the suspension period once the service re-commences and the full benefits are realised.

10. Background and Options

10.1 A motion titled "Garden Waste" was proposed to Council at its meeting on 13th October 2013, by Councillor David Brickhill and seconded by Councillor A Moran.

10.2 The content of the motion was as follows:

"This Council is critical of the recent decisions made concerning the collection of recyclable garden waste."

10.3. In accordance with the Council Procedure Rules within the Constitution, Council resolved that the matter stand referred to Cabinet.

10.4. Full details of the background to the savings proposal associated with the extended suspension period, and other efficiency projects, can be found in the June 2013 Cabinet papers and its associated appendices.

10.5. From the review of options surrounding efficiencies within the garden waste service, it was identified that the Council could either extend the suspension period or introduce a chargeable garden waste service.

10.6. Extending the suspension period enabled reduced agency costs and lower fleet costs as vehicles could be off-hired for a longer period of time and the need for agency staff was greatly reduced.

10.7. By introducing a chargeable garden waste service, the main disadvantage was the negative impact it would have on the Council's recycling rate as garden waste accounts for half of the recycling rate. It could also have led to significant reputational damage for the Council.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Kevin Melling
Designation: Head of Environmental Protection and Enhancement
Tel No: 01270 686638
Email: kevin.melling@cheshireeast.gov.uk

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	4 th March 2014
Report of:	Kevin Melling, Head of Environmental Protection and Enhancement
Subject/Title:	Cheshire East Waste Strategy 2030
Portfolio Holder:	Cllr David Topping – Environment

1.0 Report Summary

- 1.1 The Council's waste strategy will drive change in the treatment of waste, utilising it as a resource, delivering leading environmental performance and innovation for the residents of Cheshire East. The strategy will aim to utilise waste for energy production, removing the need for landfill and helping to alleviate fuel poverty. In the processing of organic waste, the Council will pursue the use of sustainable bio technologies such as Anaerobic Digestion to provide heat, power and a compost product. The authority has already achieved a recycling rate of 54% and will continue to strive to exceed the national recycling target. To minimise the total amount of waste produced the Council will promote waste prevention, reuse and recycling through its waste prevention volunteers and partners. All of which, will make a significant contribution to creating a sustainable environment within Cheshire East.
- 1.2 As part of the authorities transition to providing services through alternative service delivery vehicles the Council will deliver its strategy through the creation of ANSA Environmental Services Ltd, a Wholly Owned Company (WOC) of the Council. In order to set up the objectives of the WOC and inform procurement decisions, the Council needs the direction of an overall waste strategy. Additionally, this strategy will form the link between the strategic aspirations of the Council, the formation of the WOC's business plan and the final delivery of services. This in turn will inform and be informed by the Waste Local plan.
- 1.3 Furthermore, the future strategy will help to build confidence in the public sphere and waste management industry, demonstrating the Council's ambitious and forward thinking approach whilst at the same time conveying to the wider waste community the considered and well thought out long term strategy for waste management. The industry needs to

understand the strategic direction of the authority to inform its own decisions and build confidence in the future procurement of recycling and waste processing being undertaken as part of the Environmental Operations Major Change Programme.

2.0 Recommendations

- 2.1 To approve the appended high level Waste Strategy Objectives (Appendix 1)
- 2.2 To give delegated authority to the Head of Environmental Protection and Enhancement acting in consultation with the Head of Legal Services, the Monitoring Officer and the Portfolio Holder for Environment, to develop a waste strategy for Cheshire East. This will be based on the high level objectives in Appendix 1 and developed into a waste strategy document for Cheshire East.
- 2.3 To give delegated authority to the Head of Environmental Protection and Enhancement acting in consultation with the Head of Legal Services, the Monitoring Officer and the Portfolio Holder for Environment, to procure technical advisors and, in parallel with the development of the waste strategy, to scope and carry out a Strategic Environmental Assessment (SEA). This will include carrying out a public consultation on the waste strategy and the SEA utilising electronic media, the citizen's panel and public road shows.
- 2.4 To return to Cabinet for the adoption of the waste strategy in Spring/Summer 2014.

3.0 Reasons for Recommendations

- 3.1 A clear, coherent strategy is vital for such a major area of spend, especially in an area of changing technologies and practice. The formation and adoption of a strategy will enhance the Council's reputation and hence its ability to procure cost effective contracts going forward for the WOC to deliver on its behalf.
- 3.2 The strategy will provide the Council with a long-term strategic policy and offer protection against the possibility of challenge from the waste industry over its waste and recycling activities; it will also assist the long term sustainability of its operations.
- 3.3 A long term strategy will build confidence in the waste management industry. This confidence is vital because the Major Change Project involves the re-letting of the Council's contracts for waste disposal, treatment and recycling. In order to gain best value for the Council and

residents of Cheshire East in this procurement exercise, bidders need to have confidence in the Council's long term waste strategy and aspirations.

- 3.4 The strategy will provide a vehicle to be able to set measurable objectives for the WOC in accordance with the aims, objectives and priorities of the Council.

4.0 Wards Affected

- 4.1 All wards

5.0 Local Ward Members

- 5.1 All members

6.0 Policy Implications

- 6.1 The waste strategy is in line with section 5 'ensure a sustainable future' of the Councils Sustainable Community Strategy. The strategy objectives will also ensure the delivery of Outcome 4 of the Councils 3 year plan: Cheshire East is a green and sustainable place.

7.0 Financial Implications

- 7.1 The strategy is in line with the overall aspirations of the Environmental Operations Change Programme and the cost savings associated with it. As reflected in the medium term financial strategy, elements of the waste strategy will result in both expenditure and savings proposals, either through operational delivery, contracts or waste prevention activities; such changes are being reflected in the current business planning process.
- 7.2 The cost of producing the strategy and any related environmental assessments required has been included within the 2013/14 approved budget.

8.0 Legal Implications

- 8.1 There is no statutory requirement for a unitary authority to have a waste strategy; however it is considered good practice. Since 2010 a number of high profile residual waste management procurements have been abandoned following the withdrawal of Private Finance Initiatives (PFI) credits. As a result, the pool of potential contractors from whom the Council might wish to procure future waste management services is cautious in assessing which procurements to participate in. Having a newly developed waste strategy should enhance the attractiveness of the

Council's offering resulting in better competition and enhanced value for money.

- 8.2 Given that there is no legal requirement for a unitary authority to have a waste strategy, it follows that there is no legal requirement for a strategic environmental assessment ("SEA") to be carried out. However, the 2004 guidance issued by the Department of the Environment, Food and Rural Affairs encourages authorities to carry out a SEA.
- 8.3 One aspect of the SEA is that it involves consultation with statutory consultees and the public thereby offering a minimum level of consultation.
- 8.4 If the Council were to need to develop new facilities in connection with its waste management function, a detailed strategy together with a properly scoped SEA and full consultation would be useful tools to support and associated application for planning permission.
- 8.5 Throughout the drafting of the waste strategy, careful planning and thought would need to be given, at a timely stage, to the possible regulatory implications of any proposed new facilities that may be required following the adoption of the strategy, including, but not limited to planning permission, and environmental permitting. A draft of a robust project plan to ensure that any such implications were fully complied with would need to be drawn up parallel and followed after adoption, allowing sufficient time for any necessary steps.

9.0 Risk Management

- 9.1 That the strategy will not be completed in the time scales required and the Council will lack credibility when attempting to realise the benefits of a clear and coherent waste strategy, such as greater competition and interest from private sector providers.

10.0 Background and Options

- 10.1 Cheshire East Council currently operates under a waste policy in line with the Community Strategy 2010-2025 and Joint Municipal Waste Management Strategy to 2020. Since the production of those documents however, two changes now require a new waste strategy.
- 10.2 The removal of credits from the former PFI solution for residual waste and the current service delivery changes proposed mean that the Council now needs a waste strategy to guide future service delivery changes and contract procurement for residual and recycling processing to 2030 in line with waste and mineral planning.

11.0 Access to Information

Ralph Kemp, Waste Strategy Manager

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Appendix 1

Theme	Cheshire East Waste Strategy High Level Objectives
Service Delivery	To deliver a quality and value for money waste management service that achieves consistently high levels of customer satisfaction of 80% or more.
	To deliver services in a cost effective way through a wholly owned company.
	Investigate the opportunities for efficiencies through working with other waste collection and disposal authorities.
Waste Reduction and Re-Use	To make waste prevention, reduction and reuse a priority over recycling and disposal, promoting sustainability and reducing costs.
	Work to reduce the total amount of household waste produced per annum in Cheshire East.
	Work to reduce the amount of household waste produced per person in Cheshire East.
	Work to increase waste re-uses activity amongst residents in partnership with the charitable and furniture reuse sector.
Recycling	To continue to exceed national targets for recycling (currently 50% by 2020).
	To provide all households with a simple, easy to use, kerbside recycling collection service for glass, metals, plastics, paper and card board and work to increase the types of recyclable materials collected.
	To maximise public participation in recycling schemes through waste education and communication with residents.
	To reduce organic waste arising by giving priority to promoting home composting solutions for garden and food waste.
	To utilise energy generation to process over 40,000 tonnes of kerbside collected organic waste by sustainable bio technologies such as anaerobic digestion, to generate heat and power that will be available to local communities and contributing to eliminating fuel poverty.
Residual Waste Management	Ensure that residual waste is managed to support waste prevention reuse and recycling, minimising waste produced.
	To utilise waste that can not be reused or recycled as a resource for energy generation that will be available to local communities and contributing to eliminating fuel poverty.
	Pursue "Target Zero" - To reduce disposal to landfill to zero and achieve 100% diversion from landfill, to waste to energy generation.
Working Together	To work in partnership with the commercial and charitable sectors such as the waste industry, supermarkets, housing trusts and Cheshire Furniture Reuse forum, to promote waste reduction reuse and recycling.
	To continue to build and utilise a waste prevention volunteer network to promote waste education and awareness across Cheshire East.
	To work with schools and higher education establishments in Cheshire East to promote waste prevention to the next generation.
	Provide waste management services that comply with legislative standards for environmental protection.

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	4 th March 2014
Report of:	Head of Environmental Protection and Enhancement and Head of Legal Services and Director of Economic Growth and Prosperity
Subject/Title:	All Change for Crewe – High Growth City Crewe Green Link Road South: Submission of DfT Final Funding submission; authority to proceed to Phase 2: Detailed Design and Construction; and, agreements and approvals necessary to facilitate commencement of Phase 2: detailed Design and Construction (Forward Plan Ref. CE 13/14-61)
Portfolio Holder:	Councillor David Brown Councillor Peter Raynes

1. Introduction

- 1.1. As the largest town in the Borough, the role of Crewe in the economy of Cheshire East and the wider Cheshire and Warrington sub-region is crucial.
- 1.2. This has been recognised in the development of the *All Change for Crewe* regeneration programme, in which the Council and its partners have set out a long-term vision for the regeneration and economic growth of the town. This has focused on the significant assets that create such a strong proposition for investment, which is based on the town as:
 - a uniquely well connected place, in terms of its national and local rail and road networks
 - a leading advanced engineering and manufacturing centre, built on a rich industrial heritage and a track record of innovation and growth by globally recognised brands, such as Bentley, Morning Foods and 20:20 Mobile.
 - a relatively unconstrained location with major strategic sites identified for employment and housing growth
- 1.3. Through the *All Change for Crewe* programme, millions of pounds of new investment have been secured from the public and private

sector, which is crucial to delivering regeneration and growth. This includes:

- Bentley committing over £800m to support the production of new models at its Crewe HQ, securing over 4,000 jobs in Crewe and creating 1,000 more within the company and its supply chain.
- £26.5m to deliver the Crewe Green Link Road South, the subject of this report, which is central to the Council's major programme of new strategic infrastructure across the borough, which is currently the largest outside of a major conurbation in the UK. This programme also includes over £9m towards the cost of crucial improvements between Crewe and the M6, including junction improvements and widening of the A500 and £2.7m to support the creation of the Basford West spine road.
- £3.5m towards the 'Smarter Ways to Travel project, providing a range of initiatives to support sustainable ways of travel across Crewe, focused on linking people to jobs.
- And, most recently, plans announced by the Council to invest over £15m to construct a new Lifestyle Centre that incorporates leisure, library and care services at the heart of Crewe town centre

1.4. Beyond these successes, there is recognition that the town has an even more crucial role to play in stimulating the economic growth of the sub-region. Building upon current and emerging plans for investment in rail and road infrastructure, including HS2 connectivity at Crewe the town has the potential for super-charged growth at the heart of *High Growth City* (HGC), creating up to 60,000 new jobs, including up to 15,000 around Crewe and a further £3bn increase in the area's productivity (GVA). The delivery of this growth is multi-faceted, and will need the support of all partners, including the Council, the Cheshire & Warrington Enterprise Partnership (LEP) through its new Local Growth Fund resources and, crucially, the private sector. These plans include:

- The development of the Basford employment sites, which are crucial to the sub-region, providing the base for thousands of new jobs, straddling the West Coast mainline, the proposed route of HS2 and, potentially, a new fully integrated Hub Station.
- Building upon the commitment of Bentley, to create an Automotive Research, Development and Supply Hub, accompanied by a rail centre of excellence and supported by a bespoke Growth Accelerator programme and strategic logistics centre.
- This will be enhanced further by a focus on *High Growth City* becoming a national centre of excellence of engineering and manufacturing skills allied to the automotive and rail infrastructure sectors. This will include delivery of the proposed University Technical College in Crewe and could be extended if Crewe is selected as the base for the new £20m Rail Engineering College

required by 2017 to provide 2,000 apprentices with the skills required to build the new HS2 line.

- Alternative Energy projects - the Council is progressing plans for a new Deep Geothermal energy project located close to Bentley and a proposed new residential scheme, which has the potential to generate significant reductions to the cost of energy. Linked to this energy innovation and an emerging new Energy Strategy, plans are progressing for a new R&D facility in close proximity, to support the development of key skills and business incubation brokerage.

1.5. *Crewe Green Link Road South* (CGLRS) is therefore identified as a key project within the Council's major programme of new strategic infrastructure across the borough, which is currently the largest outside of a major conurbation in the UK. CGLRS will enable draw down of Department for Transport investment of £15.7m and will deliver benefits in terms of unlocking economic growth, delivering highway network efficiency improvements, and also providing environmental benefits.

1.6. The proposed road will also help facilitate the delivery of employment and housing at the Basford sites and and deliver wide-reaching transport benefits to the local highway network, including improving access to Crewe railway station.

1.7. It seeks to achieve this by :

- (a) Facilitating the full development of the proposed Basford East Strategic Employment Site ("Basford East"). Basford East is a major development opportunity and is allocated within the adopted Crewe and Nantwich Replacement Local Plan under Policy E3 as a regional and strategic employment allocation. In the emerging CEC Local Plan Basford East is allocated for mixed use development, with the potential for 1000 homes and 19 hectares of B1 Office Space, with up to 5 hectares of B2 floor space.
- (b) Improving access to the Basford West Strategic Employment Site ("Basford West"). This site has planning permission and can be expected to create up to 1,900 permanent jobs and 1,392 construction jobs over the next 5 – 10 years, and provide approximately 300 homes.
- (c) The Scheme is also a key objective for the Cheshire and Warrington Local Enterprise Partnership

2. Report Summary

2.1. This report seeks approval to submit the Final Funding application to the Department of Transport (DfT) to release funding towards the

construction of the Crewe Green Link Road South scheme (the "Scheme").

- 2.2. The Project Steering Group has carried out an assessment of the Target Cost submission for Phase 2: Detailed Design and Construction, which has been provided by the appointed Contractor as part of the current Phase 1 activities.
- 2.3. The report also seeks approval to proceed to Phase 2: Detailed Design and Construction, subject to final funding approval being received from DfT and endorsement from the Executive Monitoring Board (EMB).
- 2.4. This report seeks approval of a revised scheme funding profile including the funding the Council is required to 'forward fund' in advance of the potential availability of developer (S106) contributions to the scheme.
- 2.5. This report seeks approval to enter into agreement with landowners and to undertake limited advance engineering and ecological mitigation works in advance of the final funding decision from the DfT.
- 2.6. Approval is sought to enter into agreement, including payment of compensation, with landowners for land required for great crested newt mitigation necessary to meet Natural England requirements to grant a protected species licence and facilitate delivery of the Scheme.
- 2.7. This report seeks approval to declare the contract for land purchase with the Duchy of Lancaster unconditional and to proceed to purchase the required Crown land and to trigger the existing land option with Network Rail and to proceed to enter into the Transfers (as required), Easement, Dedication Agreement and Licence for street furniture all in relation to land owned by Network Rail.
- 2.8. The report seeks approval of the revised estimate from Network Rail for professional fees forecast to be incurred in the management of Network Rail's interests in this scheme, including technical approvals and oversight during construction of the railway underbridge including track access fees.
- 2.9. Approval is also sought to enter into contract with Network Rail Works Delivery Unit (WDU) to undertake specialist rail related construction activities as part of the construction of the new railway underbridge to be constructed as part of the Scheme.
- 2.10. The report also seeks to delegate authority for any changes required to the terms and conditions, fees, compensation, or other details of any of the above to the Director of Economic Growth and

Prosperity and Head of Legal Services, and in consultation with the relevant Portfolio Holder.

2.11. The following documents are provided in support:

- Annex A – Scheme Outturn Forecast & Funding Summary

3. Recommendations

- 3.1. That the Target Cost for Phase 2: Detailed Design and Construction of the Scheme of £16.640m, which was agreed by the Project Steering Group on 30th January 2014, is approved.
- 3.2. That the DfT Final Funding application, which is based on the Target Cost and Scheme Outturn Forecast of £26.5m developed and agreed by the Project Steering Group, is approved and submitted to the DfT.
- 3.3. That, subject to confirmation of DfT approval of the Final Funding application, and the prior endorsement of the business case from the Executive Monitoring Board (EMB) the Council issue a Notice to Proceed to Construction which would mark the start of Phase 2 of the existing Contract with Morgan Sindall, and comprises the Detailed Design and Construction of the Crewe Green Link Road South.
- 3.4. That the Director of Economic Growth and Prosperity in consultation with the Portfolio Holder for Assets and The Head of Legal Services be authorised to exercise the Council's existing agreements in respect of the land agreements in place with the Duchy of Lancaster and Network Rail, including payment of any outstanding option fees. If necessitated by the programme for start of works the authority permits notices to be served in advance of the DfT Final Funding confirmation being received.
- 3.5. That delegated authority be given to the Director of Economic Growth and Prosperity in consultation with the Portfolio Holder for Assets and the Head of Legal Services to negotiate and finalise legal and financial terms for legal agreements allowing early access to Crown land and instruct completion of such legal agreements for the purpose of carrying out advance environmental mitigation measures including limited low level vegetation clearance and erection of newt fencing and subsequently newt trapping and relocation, erection of tree protection fencing, and installation of bird and bat boxes.
- 3.6. That delegated authority be given to the Director of Economic Growth and Prosperity in consultation with the Portfolio Holder for Assets and the Head of Legal Services to negotiate and finalise legal and financial terms and instruct completion of a legal

agreement or agreements for acquisition of additional land to accommodate great crested newt (GCN) mitigation habitat to satisfy Natural England (NE) requirements to grant a European Protected Species Licence (EPSL).

- 3.7. Authority is sought to the undertaking of advance environmental mitigation works in advance of the final funding approval from DfT, as is required in order to meet the programme for construction of the Scheme. And that delegated authority be given to the Director of Economic Growth and Prosperity to approve the advance works which will include, but may not be limited to: erecting newt fencing across the site including localised vegetation clearance to facilitate it, trapping great crested newts (GCN), and relocating them in accordance with an EPSL for which an application has been prepared ready for submission; installation of bird and bat boxes on land adjacent to the scheme, subject to agreement with landowners; and, erection of tree protection fencing.
- 3.8. That Cabinet approve a revised estimate of Network Rail's professional fees associated with the development and delivery of the Scheme, including fees incurred before the DfT Final Funding approval stage, reviews of submitted information and technical approvals, track access, and (some limited) post-completion monitoring, and formal approval of such is provided to Network Rail.
- 3.9. That, if required for commercial or programme reasons, the Council enter into Contract direct with Network Rail Works Delivery Unit (WDU) to deliver specialist elements of the underbridge construction. This may require amendment to the existing contract with Network Rail or new contract to transfer liabilities for the NR works to the Contractor for the Scheme, Morgan Sindall. Agreement of the terms and conditions of each agreement to be delegated to the Director of Economic Growth and Prosperity and the Head of Legal Services.
- 3.10. That the authority to make any changes to the DfT Final Funding Application, Target Cost, NR fees estimate, scope of advance environmental mitigation works, terms and conditions of land agreements/undertakings and any other agreements required to facilitate the advance works or construction, is delegated to the Director of Economic Growth and Prosperity and the Head of Legal Services in consultation with the Portfolio Holder, if required.
- 3.11. That Cabinet approves a revised funding profile for the Scheme including possible increase to the Council's Local Transport Plan (LTP) contribution and pursuant to the Cabinet decision of May 2013 the Cabinet re-affirms its commitment to provide a maximum of £8.8m of funding to cover the expected, but contingent, developer contributions to the scheme and that the risks and alternative reimbursement options are noted.

- 3.12. That Cabinet notes that the Compulsory Purchase Order (CPO) for the Scheme has been confirmed by the Secretary of State (SoS) and are now free from challenge, and that in accordance with the Cabinet decision of 20th August 2012 land acquisition is to be progressed using a combination of General Vesting Declaration and Notice to Treat / Notice of Entry.
- 3.13. That further to the Cabinet decision of 20th August 2012 where approval was granted Cabinet authorises the appointment of appropriate consultants to assist and advise in the preparation and presentation of the Councils case in the event that the question of compensation be referred to the Upper Tribunal (Lands Chamber).

4. Reasons for Recommendations

- 4.1. To secure up to £15.7m of DfT funding and to deliver the Crewe Green Link Road South major road scheme to support economic growth.
- 4.2. The Target Cost has been developed by the Project Team. It has been informed by refinement of the existing design and in the case of high risk elements such as the railway underbridge, detailed design has been progressed through engagement with Network Rail, including obtaining approvals of Forms 1 and 2 and progressing Form 3. This has enabled the risk associated with construction to be reduced giving the Project Steering Group greater confidence that the Target Cost can be achieved.
- 4.3. A Target Cost Verification Report has been produced by Jacobs acting as Client's Agent. The assessment involved a detailed review of Morgan Sindall's Target Cost submission and the associated design prepared by their designer, Mott MacDonald. The Report has been reviewed, commented on and approved by the Project Steering Group on 30th January 2014.
- 4.4. The programme for agreement of Target Cost, DfT Final Funding approval, and subsequently start of detailed design and main works on site is on the critical path of the Scheme programme. As such, in order to progress the scheme, it is essential that the DfT Final Funding application is submitted for consideration and approval as soon as possible.
- 4.5. The DfT Final Funding application Scheme Forecast includes preparatory fees to-date, forecast of internal and external professional fees through to scheme completion, the Target Cost for Phase 2, land costs, and risk.

- 4.6. A Quantified Risk Assessment has been completed to cover unforeseen costs and is included within the Scheme outturn forecast and the DfT Final Funding application.
- 4.7. Given that the Target Cost for Phase 2 has been agreed by Project Steering Group it is proposed that the Council issue a Notice to Proceed to Construction to the Contractor, Morgan Sindall, for the Phase 2 works, subject to approval of the DfT Final Funding application and also EMB Scheme endorsement.
- 4.8. The Duchy of Lancaster agreement stipulates a 20 working day notice period prior to completion after serving notice in respect of the land we want to acquire, subject to confirmation of planning permission (received January 2013) and DfT final funding approval (expected April / May 2014). Although it is anticipated that there will be sufficient time following DfT funding confirmation to serve notice and complete the Duchy agreement to permit land entry for the start of main works at the start of July, this will need to be monitored and if necessary may require that notice is served in advance of DfT confirmation.
- 4.9. The Network Rail option agreement stipulates a 40 working day notice period prior to completion after serving notice in respect of the easement, dedication agreement, the licence for street furniture and land we want to acquire (via transfer), subject to the requisite railway consents being obtained (Network Rail internal approvals). There is the option to reduce this notice period subject to agreement between the parties. The Council have approached Network Rail to enquire about reducing the notice period to 20 days, to bring it in-line with the Duchy agreement, which our programme indicates would mean notice could be served following DfT Final Funding approval. In the event that the current (40 working day) notice period persists this would require notice to be served at the start of May 2014 at the latest to avoid causing delay to the start of the main works on site, which are due to commence at the start of July 2014. As such the authority is sought here to serve notice prior to receipt of DfT confirmation.
- 4.10. Negotiations are being progressed with the Duchy of Lancaster with the object of agreeing early access to the land covered by the existing conditional contract in advance of that contract being completed, for the purpose of undertaking GCN mitigation activities comprising limited vegetation clearance, fencing, trapping and relocation, and to enable the erection of requisite tree protection fencing. The advance newt mitigation works must commence (limited low level vegetation clearance and erection of newt fencing) as soon as possible following the granting of the EPSL by NE, which is expected in April / May 2014, to permit sufficient time for trapping prior to the proposed start of main works on site at the start of July 2014.

- 4.11. Changing and conflicting advice from NE has resulted in a sub optimal level of land for GCN mitigation being included in the CPO. This situation was complicated further by the fluid proposals for the adjacent Basford East development site which NE must have regard for in their decisions. The Contractor's ecological consultants have reviewed the position and the Council is now confident of the requirements. An agreement with NE on an appropriate level of GCN mitigation is a key requirement to commence works on site.
- 4.12. It is therefore important for the Council to enter into separate agreement, including payment of compensation, for the land required to meet with NE requirements to enable them to grant an EPSL in order to deliver the GCN mitigation strategy to enable construction of the Scheme to programme.
- 4.13. It will be necessary to undertake some specific elements of advance environmental mitigation works in advance of any site clearance or the start of main works on site. This work is required to enable the main scheme to be delivered to programme and delays in undertaking this work could have significant adverse impact on the programme. Approval is sought for those elements of advance mitigation works that will need to be progressed in advance of DfT Final Funding approval and are therefore to be undertaken at the Council's risk. Elements include, but are not limited to, great crested newt (GCN) fencing, trapping and translocation, installation of bird and bat boxes on adjacent land (subject to landowner agreement), and erection of requisite tree protection fencing.
- 4.14. It has been necessary to progress negotiations with landowners with a view to reaching agreement for the placement of bird and bat boxes in appropriate trees on Duchy and Co-Op land. These boxes are required to mitigate for loss of trees due to the road construction, in accordance with Best Practice guidelines.
- 4.15. A Network Rail professional fees estimate was agreed by the Portfolio Holder in February 2013. This estimate was prepared based on the construction programme and scope of construction works at that time. The construction programme and scope has since been developed and updated by the contractor for the Scheme, Morgan Sindall. Although the construction periods are broadly similar the current programme has meant some variation in the scope and timings of rail related works and as a result the Network Rail professional fees estimate for management and facilitation has been revised. It will be necessary for the Council to approve this revised fees estimate and confirm this back to Network Rail in advance of the Scheme progressing to Phase 2.

- 4.16. Network Rail Works Delivery Unit (WDU) has also provided a fees estimate for provision of specialist construction activities which form part of the proposed underbridge construction works. In the event that Morgan Sindall select NR WDU to undertake any part of the specialist activities, these works would be invoiced direct to CEC and will reduce the agreed Target Cost by the same amount. It would also be necessary for the Council to contract direct with Network Rail WDU and appropriate legal agreement or contract or amendment to the existing contract with Morgan Sindall would be necessary to pass liabilities for the Network Rail WDU works, including certification of payments, to the Contractor.
- 4.17. Between the time of this report and the time of submission of the DfT Final Funding application some modifications may be required to the funding contribution requested. In order to protect the programme for the funding application and ultimately the scheme construction it is recommended that the authority to make modifications to the application, within the limits of the current approved funding proposal, is delegated to the Director of Economic Growth and Prosperity in consultation with the Head of Legal Services.
- 4.18. In Cabinet resolution of May 2013 Cabinet confirmed its agreement in principle to underwriting the anticipated but contingent S106 / developer contributions to the scheme. Since this time the Scheme design has been developed and this has resulted in a Target Cost for the detailed design and construction that has increased from the previous summer 2012 estimate. The Scheme Forecast Outturn has been reassessed based on the Target Cost and it has been concluded that the approved level of forward funding of up to £8.8m is still appropriate albeit with a smaller allowance for risk. However, a Quantified Risk Assessment (QRA) has been developed to include unforeseen costs for the Scheme, including significant programme delay, and this has been included in the forthcoming DfT Final Funding application Scheme Outturn Forecast. This QRA indicates that if, for example, the Scheme was to experience delay to programme such that Network Rail track access (possessions) were missed at Christmas 2014 the Scheme would likely incur cost that might result in the Council having to increase its LTP contribution and/or forward funding to the Scheme. It is estimated that the maximum forward funding that would be required is £9.6m.
- 4.19. In the event that S106 contribution estimates at current or higher levels as outlined above (refer to 4.18) are not realised then it will be necessary for the Council to increase its LTP contribution (currently £1.3m) to the Scheme or identify alternative funding sources.
- 4.20. The Council is to make a GVD in respect of the land needing to be compulsorily acquired to complement that secured by the Council

by agreement and that Notice to Treat and Notice of Entry will be served in relation to land required temporarily for scheme construction and related purposes and also the new rights required for construction and maintenance of the scheme.

- 4.21. The CPO for the Scheme was confirmed with modifications in November 2013, and notice of this confirmation was published in December 2013. The period of challenge expired 29th January 2014, with no challenges received. Land acquisition is now to be progressed using a combination of General Vesting Declaration and Notice to Treat / Notice of Entry. Negotiations with two landowners have been unsuccessful and it is expected that the value of compensation will need to be determined by the Lands Tribunal if not settled by agreement. It may therefore be necessary for the Council to present and evidence its case in relation to compensation at the Tribunal and incur costs arising from such proceedings if negotiations are ultimately unsuccessful.

5. Wards Affected

- 5.1. Haslington

6. Local Ward Members

- 6.1. Cllr John Hammond
- 6.2. Cllr David Marren

7. Policy Implications

- 7.1. The investment accords with the Local Transport Plan Implementation Plan (2011-2015) policy B2 – Enabling development.
- 7.2. This decision will contribute towards the delivery of Crewe Green Link Road South which will have a beneficial effect on congestion, road safety, accessibility and reduction of carbon emissions over the urban Crewe highway network.

8. Financial Implications

- 8.1. Sufficient budget provision is available within the approved Capital programme to cover the Contractors tendered Phase 2 fees for completing the detailed design and construction of the Scheme, and other professional fees and costs expected to be incurred in delivery of the Scheme.
- 8.2. The Target Cost for Scheme construction has increased when compared to the previous construction estimate. The previous estimate was undertaken in summer 2012 by a 3rd party contractor advising on buildability issues. This increase is the result of the

design development undertaken during Phase 1: Target Cost development, and the increased scope of Network Rail requirements. The Scheme outturn forecast total is still within the original budget projection.

- 8.3. It should be noted that the Construction Contract includes a 'pain / gain' mechanism. A Target Cost is agreed, and then the Contractor is paid his audited actual costs, as defined by the Contract. If the Target is not met, any difference is shared in accordance with the Contract. For sums between 95% and 105% of the target, the share is 50:50, meaning that CEC would keep half of any saving, but equally would pay half of any overspend. For sums outside that range, the Contractor receives a smaller share of savings, and has to absorb a larger share of overspends, in accordance with the table below:

Percentage of Target Cost	Shares	
	CEC	Contractor
Less than 85%	100	0
85 - 95	75	25
95 - 105	50	50
105 - 110	25	75
Greater than 110	0	100

- 8.4. The worst case is where actual costs exceed 110% of the Target. In this instance CEC would be liable to pay the Contractor 103.75% of the Target Cost. (i.e. Half of the first 5% overspend, and one quarter of the next 5% overspend, with no further payments for further overspend). It is possible that CEC would be required to 'cashflow' some payments in excess of the 103.75% figure, but would be able to recover these from the Contractor at a later date.
- 8.5. It should also be noted that CEC carry a number of risks under the Construction Contract, and that if those risks occur, or CEC give instructions changing the scope of the works, the Target Price is liable to be changed in accordance with the Contract. The payment is then calculated based on the revised Target Price.
- 8.6. The DfT are, subject to the Final Funding submission, committed to contribute 59.3% of the overall scheme cost, up to a maximum of £15.724m, based on the Best and Final Bid (BAFB) Scheme cost of £26.504m.
- 8.7. By serving notice on the Duchy of Lancaster declaring the contract for purchase of Crown land unconditional the Council would commit itself to the purchase and become liable for payment of the purchase price (less the consideration paid to date) 20 working days later. By serving notice to trigger the Network Rail option the Council would commit itself to completing the land agreements with Network Rail and become liable for payment of the option fee plus

indexation (less the option fees paid to date) 40 working days later or within a shorter period of time if agreed with Network Rail in advance. The details and values associated with these agreements are confidential at this time. Completion would fall in FY 2014/15 and these fees have been accounted for / can be accommodated by the Capital scheme budget. Approximately 59% of the fees will be recoverable from DfT funding.

- 8.8. It is anticipated that that the proposed advance environmental mitigation works on Duchy land can be negotiated to be undertaken at no cost to the Council. However, if compensation or agreement fee is required then this is anticipated to be nominal. It will be necessary for the Council to pay the Duchy's reasonable professional fees associated with reaching agreement in this regard.
- 8.9. The terms and conditions of the agreement with a landowner / landowners for the land required for newt mitigation habitat are currently being negotiated. However, it is proposed that the land will be leased from the landowner for a term of 150 years as is required by NE to demonstrate the long term security of the land as newt habitat and it is anticipated that there will be an option or contract providing for lease completion to follow DfT final funding confirmation, which is expected in May 2014. As such the Council will not be liable to pay rent or premium in the unlikely event that DfT funding is not confirmed. The Council will be liable for the landowners professional fees associated with negotiating and agreeing the agreement for lease and the associated lease,. The terms and conditions of the final land agreement will be confidential. Approximately 59% of the fees and agreed compensation will be recoverable from the DfT.
- 8.10. A number of advance environmental works are required to be undertaken in the spring of 2014 in advance of the main construction works commencing in summer 2014, and in advance of the DfT final funding confirmation. Cabinet authority to forward fund these works is required. These works will need to be agreed through the Change Control process. Costs for these works are estimated as follows:

Advance works	Timing	Cost Estimate (£)
Great Crested Newt Mitigation	April / May 2014*	55,000
Bird and Bat box installation	Spring 2014	10,000
Tree protection fencing	May 2014	30,000
Total (in advance of DfT funding)		95,000
*Subject to granting of EPSL by Natural England		

- 8.11. As with the other Phase 1: Target Cost development works, the cost of these works can be accommodated within the Capital Budget for financial years 2013/14 and 2014/15.
- 8.12. In order to undertake the placement of bird and / or bat boxes on land adjacent to but outside the Scheme boundary agreements must be reached with landowners. Terms of these agreements are currently being negotiated. Upon completion of the agreements it is expected that nominal compensation payment will be required. The exact details of the agreement and compensation arrangements will be confidential.
- 8.13. Sufficient budget provision is available within the approved capital programme to cover NR's forecast fees in the 2013/14 and 2014/15 financial years.
- 8.14. In the unlikely event that DfT funding is not approved then the Council will be liable to cover the cost of NR fees incurred. The fee estimate produced by NR includes costs of advice, approvals, supervision, possessions charges, post completion monitoring, and 5% contingency.
- 8.15. In total the revised Network Rail estimate is £860,000, an increase of £235,000 from the previous estimate. Approximately half this increase is attributed to the cost of track access (possessions), the estimate for which has been tailored to the current programme. The estimate also includes for a temporary speed restriction which will be required during construction, and increased supervision requirement. These revised figures are included within overall scheme costs presented in this report.
- 8.16. The revised total scheme estimate is included within the previously advised total Scheme outturn forecast. Final approval, and thus liability for the full estimated costs will only accrue after a final Council decision to proceed with the scheme is taken. It is important to note that Network Rail is a not-for-profit organisation and the Council will only pay actual costs for expense incurred.
- 8.17. In the event that Network Rail WDU are to be contracted directly by CEC to deliver specific elements of the works required during construction of the railway underbridge the works cost estimate will be agreed by the Director of Economic Growth and Prosperity , if necessary in consultation with the Portfolio Holder.
- 8.18. The cost of any works contracted directly to CEC for the Scheme construction would result in a corresponding reduction (less any contract management fees) in the Target Cost which currently includes for all construction elements.

- 8.19. Since the DfT BAFB the Scheme design and estimate has been further refined, however an outturn cost of £26.5m including Qualified Risk Assessment (QRA) is still expected and will be presented to DfT in the Final Funding application submission.
- 8.20. Other than a DfT contribution of £15.7m and CEC LTP contribution of £1.6m, contributions to the scheme are expected from both the Basford West and Basford East developments. However, it was agreed by Cabinet Resolution (May 2013) that Cabinet agree in principle to forward fund the anticipated but contingent developer (S106) contributions to the scheme up to a combined maximum value of £8.8m.
- 8.21. The Scheme Forecast Outturn has been reassessed based on the Target Cost and it has been concluded that the approved level of forward funding of up to £8.8m is still appropriate albeit with a smaller allowance for risk. However, a Quantified Risk Assessment (QRA) has been developed to include unforeseen costs for the Scheme, including significant programme delay, and this has been included in the Scheme outturn forecast for the forthcoming DfT Final Funding application. Based on this DfT Scheme outturn forecast if, for example, significant programme delay occurs the Scheme will likely incur cost that might result in the Council having to increase its LTP contribution and/or forward funding to the Scheme. It is estimated that the maximum forward funding that would be required is £9.6m.
- 8.22. A signed revised S106 agreement with the Basford West developer has recently been concluded, which (calculated at current price indices) should deliver a contribution of approximately £3.3m. This funding will be triggered by commencement of development at the Basford West site, which is expected to be in the form of works commencing on the Basford West Spine Road.
- 8.23. The Basford East (or other developer) contribution required would be the difference between the final scheme cost, DfT contribution, direct Council funding (through Local Transport Plan (LTP) resource for which £300k is proposed in financial year 2014/15 subject to Portfolio holder approval) and any Basford West funding achieved.
- 8.24. In the event that the forecast S106 contributions to the scheme are not realised then the Council may need to increase its LTP contribution or identify alternative funding sources.
- 8.25. The Capital Programme for 2013-16 reported a budget for the scheme of £20.6m. Prior year spend relating to this scheme amounts to £0.9m. The Capital budget provision has now been updated following submission by the Contractor of the draft Target Cost for Phase 2, to match the DfT Best and Final Funding bid total

of £26.5m The current capital budget includes an allocation of £5.87m for developer contributions. The allowance may need to be updated once the expected forward funding contribution required is known following the final approval of the Target Cost for the scheme and / or the use of additional LTP resource explored.

- 8.26. The required forward funding of the developer contributions will have an impact on cash flow for the Council and therefore will result in a loss of investment income. There is also an element of risk that the required developer contributions from the Basford East and West sites will not be realised and will require direct funding from the Council's own capital resources.
- 8.27. Land tribunal - estimate of costs to rebut landowner's claims and prepare a case at land tribunal is £50,000 to £100,000. Scheme costs include all land costs as assessed by professional and independent surveyors. Difference in costs between landowner valuation and CEC valuation of land is several million pounds. CEC advice is that this is completely unreasonable and that a settlement closest to CEC valuation is likely to be achieved through land tribunal.

9. Legal Implications

- 9.1. Cabinet resolved in May 2013 that the decision to submit the DfT final funding application and proceed with Phase 2 works (Scheme detailed design and construction) was subject to Cabinet approval when the Target Cost was known and the extent of developer residual funding established.
- 9.2. The construction of the Crewe Green Link Road South is approved in the Council's Three Year Plan. The Council has undertaken a legally compliant procurement exercise and has appointed Morgan Sindall. The contractual terms provide a 2 phased approach and the Council is not obliged to proceed to the construction phase should it so decide.
- 9.3. The Duchy agreement stipulates that two pre-conditions are satisfied before serving notice. These are: confirmation of planning permission having been granted; and, confirmation that the Council will have the necessary funding for the Scheme which could include DfT funding. The scheme was granted planning permission in January 2013. DfT final funding approval is not expected until April / May 2014. However, if required the Council can declare the contract unconditional and serve notice of intention to complete in advance of the DfT final funding approval.
- 9.4. In respect of the Network Rail option agreement, the Council will seek to vary the terms of the agreement to agree a reduced notice period of 20 working days to complete. This will put the agreement

in line with the Duchy agreement and it is expected that DfT funding would be confirmed before serving of the notice. The only pre-condition on completion of any Transfers required from Network Rail is that the requisite (Network Rail internal) railway consents conditions are in place.

- 9.5. An additional legal agreement will need to be agreed with the Duchy of Lancaster for the purpose of permitting access to the Crown land in advance of the contract being declared unconditional to enable advance environmental mitigation works including but not limited to GCN fencing, trapping and relocation, and tree protection fencing to be undertaken.
- 9.6. That delegated authority be given to the Director of Economic Growth and Prosperity in consultation with the Portfolio Holder for Assets and the Head of Legal Services to negotiate and finalise legal and financial terms for legal agreement or agreements to purchase and / or lease some land outside the boundary of the CPO order to be used for delivery of a GCN habitat mitigation strategy.
- 9.7. It is anticipated that the eventual agreement referred to above will be a variation of an existing agreement that was reached with a landowner at the time of the CPO public inquiry. This included land that was earmarked for GCN mitigation land, but which following subsequent advice from NE is considered to be insufficient to satisfy NE requirements for GCN mitigation for the scheme to enable grant of an EPSL.
- 9.8. Any environmental work undertaken prior to confirmation of funding will be at the Council's risk. An estimate of value is summarised in section 8 above. The cost of this work can be accommodated within the capital budget for FY 2014/15. The work requires commissioning in compliance with the Council's Contract Procedure.
- 9.9. Legal agreement or agreements will need to be entered into with affected landowners for the purpose of undertaking installation of bat and bird boxes on land adjacent to but outside land secured for the Scheme and also for protection of the bat and bird boxes once in place.
- 9.10. In the event that it is necessary for CEC to contract directly with Network Rail WDU to deliver specific specialist elements of the works required to facilitate the construction of the railway underbridge, it will be necessary to have a corresponding agreement or amendment to the existing contract with the Contractor, Morgan Sindall, to transfer all liabilities for management of the works from CEC to the Contractor

- 9.11. There cannot currently be any certainty that developer (s106) contributions or Community Infrastructure Levy (CIL) will be available to part fund the scheme. The High Speed 2 (HS2) project will necessitate changes to development proposals at Basford West and the Basford East landowners will review their masterplans and proposals. These changes, reviews and revised masterplanning and development proposals could delay receipt of developer contributions and could reduce the quantum of the contributions anticipated. The National Planning Policy Framework advises local planning authorities to be flexible where revisions to s106 contributions are sought, in order to prevent planned development being stalled.
- 9.12. Legal advice will be required to ensure that anticipated s106 contributions can be justified robustly under regulation 122 of the CIL Regulations 2010 (as amended) and the Council must be mindful that (a) any committed s106 contribution will only be received if and when the relevant developer decides to implement its planning consent and any specified payment conditions triggered and that contributions must be used in accordance with the provisions of the relevant s106 agreement (b) after the earlier of April 2014 and the adoption of the CIL schedule the number of s106 contributions there can be to the project will be limited to five in respect of obligations entered into on or after 6 April 2010.
- 9.13. The CPO for the Scheme was confirmed with modifications in November 2013, and notice of this confirmation was published in December 2013. The period of challenge expired 29th January 2014, with no challenges received. Land acquisition is now to be progressed using a combination of General Vesting Declaration and Notice to Treat / Notice of Entry. It is anticipated that Land Entry will be secured in late March 2014. Negotiations with two landowners have been unsuccessful and it is expected that value of compensation will be decided at land tribunal. It is therefore necessary to present and evidence the Council's case at Lands Tribunal. the value of compensation will need to be determined by the Lands Tribunal if not settled by agreement. It may therefore be necessary for the Council to present and evidence its case in relation to compensation at the Tribunal and incur costs arising from such proceedings if negotiations are ultimately unsuccessful

10. Risk Management

- 10.1. Endorsement will be sought from EMB prior to proceeding to Phase 2. This will be used to challenge on risks to the Scheme and give confidence that the Scheme can be delivered to programme and within budget.
- 10.2. Delay in the agreement of Target Cost could delay the start of Phase 2: Detailed Design and Construction and this could in turn

put at risk the Network Rail track access (possession) programme, which commences with the first track access in October 2014.

- 10.3. In order to de-risk the construction programme and also enable development of a more robust Target Cost some of the Phase 2 detailed design has been undertaken during Phase 1 (current phase). In order to maintain programme it may be desirable to move further activities into Phase 1, e.g. advance environmental mitigation works, and these are set out elsewhere in this report.
- 10.4. The current Scheme outturn forecast has been developed from the Target Cost provided by the ECI Contractor, best practice, and based on professional advice from both the Client's Agent and professional land valuation experts.
- 10.5. The Target Cost has been assessed, interrogated, and challenged by Jacobs in their role as Client's Agent. The Target Cost Verification Report produced by Jacobs has been reviewed and approved by the Project Steering Group (30th January 2014), before approval by that Group of the Target Cost for Phase 2.
- 10.6. The risks in terms of 'pain / gain' in the conditions of contract are outlined above in section 8 outlining Financial Implications. It is worth reiterating that the worst case is where actual costs exceed 110% of the Target. In this instance CEC would be liable to pay the Contractor 103.75% of the Target Cost. (i.e. Half of the first 5% overspend, and one quarter of the next 5% overspend, with no further payments for further overspend).
- 10.7. In the unlikely event that funding is not received from the DfT, CEC would be liable for all Scheme preparation and development costs to date, including Phase 1 Contractor costs incurred. There is a break clause in the Contract in the event of no progression to Phase 2.
- 10.8. The DfT have noted that the Project Team expect to submit the Final Funding application immediately following this Cabinet resolution. On the assumption that the DfT deal with this within the 6 week period that means an announcement mid / late April 2014. It is noted that Council and European elections are on 22 May and the purdah period for these is likely to start on or around the 24 April. This leaves little leeway in case it takes longer to deal with the submission. The week before is likely to be a parliamentary recess so Ministers may not be available to confirm a decision. If DfT cannot announce the scheme before the purdah period then it won't be possible until after the elections on 22 May.
- 10.9. The Contractor has been made aware of this potential delay to the issue of the Notice to Proceed to Construction so that it can be considered when planning for the commencement of works on site,

including placement of orders for bridge related items, e.g. steel for the bridge deck.

- 10.10. The Scheme outturn forecast on which the DfT final funding application submission is based includes a QRA to capture scheme risks which sit outside the normal construction risks, but which need to be provided for within the forecast budget provision. The Scheme outturn forecast is within the original budget provision.
- 10.11. The break clause in the contract protects the Council's position over a range of scenarios – including: Insufficient funding to deliver the scheme; failure to gain requisite licences from statutory bodies, e.g. Natural England; or, simply a decision to not proceed with the scheme because it is considered to be too expensive, or any other reason.
- 10.12. In the unlikely event that DfT do not confirm funding commitment and the notices to complete the land agreements with Duchy of Lancaster and Network Rail have already been served these transactions would still have to be completed and the balance of the purchase prices would have to be paid and the Council would be liable for the full cost of entering into the contract with the Duchy and exercising the option with Network Rail.
- 10.13. The judicial review period in respect of the CPO confirmation expired on 29 January 2014 without any challenge being brought so site assembly is in the control of the Council except the additional land required for GCN mitigation which is being sought through agreement.
- 10.14. In the unlikely event that the DfT do not confirm their funding commitment to the Scheme and the Scheme does not progress, the advance environmental mitigation works are completely reversible, albeit at some cost to the Council.
- 10.15. If early access to the Crown land for environmental mitigation works cannot be secured by agreement this has the potential to impact on the programme for the start of main works on site causing significant delay. The alternative might be to serve notice declaring the land contract agreement unconditional immediately following this Cabinet resolution, which could provide land entry in early April 2014.
- 10.16. If agreement by negotiation on a variation of the land requirements cannot be achieved the Council may have to consider pursuing a new compulsory purchase order. This would have significant programme implications, potentially up to a 1 year delay to commencement of construction as well as delaying the Basford East development.

- 10.17. In the unlikely event that DfT funding is not confirmed and / or the Scheme does not proceed to construction the fencing would be removed, any damage repaired and the land reinstated to its prior condition at the Council's cost.
- 10.18. The fees estimate from NR contains professional fees associated with providing advice, management, and supervision of the scheme development and construction, including technical approvals, track access (possession) fees, post construction monitoring, etc. These are professional fees that are expected to be incurred regardless of which organisation delivers the specialist work packages for which Network Rail WDU have also provided an estimate. It has been necessary for NR to make a number of assumptions in the build up of both of these quotations. Network Rail operate as a not for profit organisation and the Council will only pay for charges incurred in conjunction with delivering their duties associated with the delivery of the underbridge structure and the Scheme.
- 10.19. It is possible that as the start of works approaches amendments will be required to the agreements, proposed works, etc and it is important that authority to approve changes is delegated to the Director of Economic Growth and Prosperity, if necessary, in consultation with the Portfolio Holder for Assets (in respect of land agreements) and Head of Legal Services. This will enable the Project Team to react quickly to protect the Scheme budget and / or programme.
- 10.20. At the time of the Cabinet resolution (May 2013) to appoint the ECI Contractor for the scheme, it was understood that Basford West were awaiting determination of a revised, more viable, mixed use application for the site. This revised application was granted by the Strategic Planning Board in July 2013. A s106 agreement has since been developed and recently agreed.
- 10.21. The Basford East site is allocated for employment development under the extant Crewe and Nantwich Local Plan. It is proposed as the site for a mixed use development in the emerging Cheshire East Local Plan. Masterplan proposals originally developed for the site were considered to be adversely affected by the Government's High Speed 2 proposals. This led the developers to revise the masterplan for the site during summer / autumn 2013 and it is now anticipated that a outline planning application for the revised masterplan will be submitted to the local planning authority in spring 2014.
- 10.22. In the unlikely event that developer contributions to the scheme cannot be secured so as to repay the Council's forward funding it may be that the Council could recoup some / all of the funding through the Community Infrastructure Levy. The scheme is referenced in the Councils Infrastructure Plan which supports the

Core Strategy. However, this levy is currently not expected to be in place until 2015.

- 10.23. The processes involved will be taken in line with the Council's programme for the scheme so no risks should arise for the Council, provided the intended timetable is met. The Council can enforce possession by way of the sheriff's warrant procedure should any occupier refuse to give up possession following the making of a GVD or the service of Notice to Treat and Notice of Entry..
- 10.24. The costs of the scheme include an allowance for risk. This includes land cost risk. Despite extensive negotiations the Council has been unable to secure agreement with certain key landowners. It is likely that the compensation payments for this land will now have to be resolved at the lands tribunal. Negotiations will continue pending any hearing.

11. Background and Options

- 11.1. Options for the delivery of Crewe Green Link Road (South) were evaluated by the Project Board in Spring 2012 and the Early Contractor Involvement (ECI) form of contract was selected as the most suitable to deliver the scheme. Using this method the Contractor is appointed to undertake design development during Phase 1 (the current phase) and to develop a Target Cost for detailed design and construction. Assuming a Target Cost is agreed, a Notice to Proceed to Construction is issued to mark the start of Phase 2, which includes detailed design and construction.
- 11.2. The anticipated timetable for the completion of Phase 1 and for Phase 2 of the contract is:

Activity	Date(s)/Time
Project Steering Group (PSG) Approval of the Target Cost	30 January 2014
Cabinet Decision	4 March 2014
Call-In Time by Members (5 working days) complete	11 March 2014
DfT Final Funding Application Submission	11 March 2014
Land Entry (CPO Land)	20 March 2014
DfT Funding Confirmation – Notice to Proceed*	24 April 2014
Commence advance environmental mitigation works on site	1 May 2014
Start of Main Works	7 July 2014
Completion – Road Opening	4 November 2015
*DfT funding confirmation may be affected by European elections purdah – this could delay decision until 24 May 2014.	

- 11.3. The CGLRS ECI Contract is a bespoke contract with the Conditions of Contract based on the NEC3 Engineering and Construction Contract (ECC) Option C, Target Cost with Activity Schedule, containing two key Phases; 1 & 2:

Phase 1 (Current Phase): The period from ECI Contract Award through to Notice to Proceed to Construction including agreement of the Target Cost, comprising the development of a Target Cost Design and agreement of the Final Target Cost.

Phase 2: The period from Notice to Proceed to Construction through to the completion of the whole of the Works and associated contract defect period. Phase 2 is divided into two sections:

- Completion of the main construction (Phase 2A); Aftercare and management of environmental landscaping and planting (Phase 2B).

- 11.4. The CPO for the land required to deliver the scheme is currently progressing. A Public Inquiry was undertaken at the end of July 2013 and was concluded with no remaining objectors to the CPO. The Secretary of State confirmed the CPO with agreed modifications (removal of spur roads) in November 2013, and the challenge period following publication of the confirmation expired 29th January 2014. Land Entry is forecast for late March 2014. The start of main works on site is scheduled to commence in early July 2014. As such it is important that the Notice to Proceed to Phase 2 of the Contract: Detailed design and construction is issued as soon as possible, and that the Council can demonstrate that a viable funding package is in place to deliver the scheme.

12. Access to Information

- 12.1. The background papers relating to this report can be inspected by contacting the report writer:

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Crewe Green Link Road South - Cabinet Report (March 2014) - Annex A

CGLRS Scheme Outturn Forecast (DfT Final Funding Application) & Funding Summary			
Scheme Element	Cost (£)	Percentage	Comments
Land	2,686,200	10.1%	
Fees (external)	1,122,999	4.2%	Includes NR ASPRO fees
Fees (internal)	2,458,110	9.3%	
Phase 1 Fees - Target Cost Design	700,000	2.6%	
Phase 2 Fees - Detailed Design & Construction (Target Cost)	16,640,616	62.8%	
Risk / Contingency (inc QRA)	2,896,074	10.9%	Includes: land contingency, Target Cost risk, and QRA
Total	26,504,000		
Funding Forecast			
Funding Source	Contribution (£)	Percentage	
DfT	15,724,000	59.3%	
Basford West *	3,300,000	12.5%	
Basford East *	5,500,000	20.8%	
Cheshire East Council / LTP Funding**	1,980,000	7.5%	
Total	26,504,000		
Notes:			
* Cheshire East Council forward funding	8,800,000		
Cabinet Authority for forward funding (May 2013)	8,800,000		
** Reduction in index linked Basford West S106 contribution might require increase in CEC/LTP contribution to cover this and any reduction in future Basford East S106 contribution			
CEC / LTP committed funding	1,600,000		

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 4th March 2014

Report of: Peter Cavanagh - 14+ Skills Manager

Subject/Title: Skills Development for Communities and the Unemployed through Re-Procurement of the SFA's Community Learning and Adult Skills Budget (Forward Plan Ref. CE 13/14-77)

Portfolio Holder: Cllr. Don Stockton – Housing, Planning, Economic Development and Regeneration

1.0 Report Summary

- 1.1 Economic growth is key to creating flourishing local communities and developing a sustainable local economy within Cheshire East. Ensuring that individuals have the skill sets to access employment opportunities that will become available through the planned Growth Strategy is a strategic priority. Whilst there is a clear need to focus on high level skills, linked to key employment sectors and emerging technologies, there is also a need to support those more disadvantaged individuals and communities. Good progress is being made. The number of young people aged 16-18 who are not in education employment or training (NEET) is currently 3.69% (Dec 2013) and the unemployment claimant count (Dec 2013) at 1.9% is below that of the North West (3.3%) and the UK (2.9).
- 1.2 The Cheshire East Lifelong Learning (CELL) service seeks to enable communities, families and individuals in Cheshire East to flourish and be self-reliant through excellent lifelong learning. Over 5,000 learners benefit from this service each year. The services are targeted towards those within communities who are the hardest to reach and others who live in areas of high deprivation. The provision aims to increase confidence and skills which help learners to overcome barriers to learning and progress to further education and employment opportunities.
- 1.3 The CELL team is fully funded through income that it earns from the Skills Funding Agency. The income is used to support individuals and community groups throughout Cheshire East in personal and skills development. CELL currently commission circa £450,000 per annum of non-accredited Community Learning and accredited Adult Skills provision services. The provision is accessed by residents of Cheshire

East, particularly those who are unemployed, have qualifications below level 2 and/or those who experience barriers to learning and employment.

- 1.4 This provision is currently delivered by 16 commissioned local partners (providers) which include community & voluntary organisations, training organisations and colleges from across Cheshire East. In the academic year 2012/13 the service delivered learning to 5,097 learners through 1,598 courses. Existing contracts commenced in August 2012 for two consecutive 12 month periods and are due to expire at the end of July 2014.
- 1.5 The purpose of the provision is to break down the barriers to education and employment that many individuals face and to develop their confidence and skills, in order for them to progress into further skills development or employment. Local people are supported to gain greater independence and self-reliance. Additionally, members of the wider family benefit from increased wellbeing which results from the positive impacts of learning and personal development. Through the provision and the commissioning process, the capacity of local community groups and training organisations is developed and CELL is able to support the local economy by working with local partners who, in turn, are able to re-invest through volunteering and employment opportunities, and purchase or hire of local resources.

This provision contributes to many of the objectives within the Council's Three Year Plan 2013-16.

- Outcome 1, *Our local communities are strong and supportive*
- Outcome 2, *Cheshire East has a strong resilient economy*
- Outcome 3, *People have the life skills and education they need to thrive*
- Outcome 5, *People live well and for longer*

- 1.6 This proposal is to re-procure for these services in order to sustain provision for the residents of Cheshire East. The tender, informed through needs analysis, will be divided into two lots (Community Learning and Adult Skills). Applicants will be allowed to apply for both lots and will be invited to submit proposals which outline the scope of the provision that they wish to provide. Multiple awards will be made to a variety of applicants who meet eligibility and evaluation requirements. The contract term is proposed to run from 1st August 2014 for one year with the option to extend for a further 12 month period.
- 1.7 The Corporate Procurement Unit has been consulted and will assist in the completion of an EU compliant procurement route.

2.0 Recommendations

- 2.1 It is recommended that the Cabinet support this re-procurement process in order to:
- support and develop the capacity of individuals, community groups and training organisations within Cheshire East

- enable the most disadvantaged in Cheshire East to gain the skills required to obtain employment
- support the local economy through sub-contracting with local partners

2.2 It is recommended that the Council invite competitive tenders for the provision of these services and award contracts to the winning bidders.

3.0 Reasons for Recommendations

3.1 To ensure that the Council sustains this provision for the residents of Cheshire East.

3.2 To ensure that this external funding is utilised and commissioned in line with the Skills Funding Agency's Funding Rules which "provide the requirements for partners to make sure public funding is protected in a proportionate way" and make up the terms and conditions of the funding agreement.

3.3 To ensure that the Council obtains maximum value for money and to ensure a robust, compliant procurement procedure is undertaken.

3.4 To ensure that future procurement and contracts for these services comply with the Public Contracts Regulations 2006 and the Council's own Finance and Contract Procedure Rules.

4.0 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications

6.1 The recommendations within this report support the Outcomes within the Council's Three Year Plan 2013-16. Specifically:

OUTCOME 1- *Our local communities are strong and supportive.* Individuals and families are self-reliant and take personal responsibility for their quality of life. Communities are cohesive, with a strong sense of neighbourliness. There is genuine civic pride and mutual respect.

OUTCOME 2- *Cheshire East has a strong and resilient economy.* Cheshire East is known as a good place to do business – we attract inward investment, there is access to a high quality workforce and our businesses and visitor economy grow, to create prosperity for all.

OUTCOME 3- *People have the life skills and education they need to thrive.* Children and young people get a good start in life, and are

prepared for the world of work. Everyone is equipped to live independent, self-sufficient lives, and to realise their particular talents and abilities.

OUTCOME 5 - *People live well and for longer.* Local people have healthy lifestyles and access to good cultural, leisure and recreational facilities. Care services focus on prevention, early intervention and physical and mental wellbeing.

7.0 Financial Implications

- 7.1 The annual approximate spend is anticipated to be circa £450,000-£500,000 across both Lots, funded from external Skills Funding Agency funding for Community Learning and Adult Skills.
- 7.2 Given that the duration of each new contract will be one year with an option to extend for one further year, then the spend over the total possible two year life of all contracts that will be entered into will be circa £900,000 - £1,000,000, and possibly more up to £1.2m should the Skills Funding Agency provide additional money within year.
- 7.3 Contracts will be in place with each successful bidder and invoices paid based on successful delivery against agreed profiles.

8.0 Legal Implications

- 8.1 The existing contracts for Community Learning and Adult Skills provision will expire on or before 31st July 2014 and cannot be further extended by the Council.
- 8.2 Given, as noted at 7.2, the total possible value of all contracts that will be entered into, the Council will need to re-procure the services in accordance with the Public Contract Regulations 2006 and also in accordance with the Council's own Finance and Contract Procedure Rules.

9.0 Risk Management

- 9.1 Failure to re-procure new contracts for these services by end June 2014 would breach both the Public Contract Regulations 2006 and the Council's own Finance and Contract Procedure Rules.
- 9.2 Failure to re-procure new contracts for these services would mean that delivery of publically subsidised post-19 education, which is primarily targeted at those in Cheshire East who are most at risk, are unemployed, have below level 2 qualifications and/or those who experience barriers to learning, would cease.
- 9.3 The use of this external funding is governed by the Skills Funding Agency's Funding Rules which "provide the requirements for partners

to make sure public funding is protected in a proportionate way” and which state “You must operate within the terms and conditions of the funding agreement and the funding rules. If you break these funding rules you are in breach of (have broken) the funding agreement with the Chief Executive. We will take action as set out in the funding agreement” (where “You” is the Council/partner, and “We” is the Agency). Reference: Skills Funding Agency Funding Rules 2013/14 version 3.

10.0 Background

- 10.1 During academic year 2012-13 CELL delivered 5.62% of learning through a direct delivery team and 94.38% of learning through sub-contracted partners. Provision is delivered through commissioned partners across many sector subject areas. Our aim is to widen participation and breakdown barriers to learning through delivery of an innovative and responsive curriculum. Combining contracted out delivery with internal delivery we maximise the learning opportunities available to many learners who want to progress to qualification courses as their confidence and skills develop.
- 10.2 In an almost entirely commissioned out service, quality monitoring and raising standards is paramount and CELL has extensive expertise in this area. The role of the development officer is critical to support each provider to deliver the very best teaching and learning in line with the Common Inspection Framework.
- 10.3 This commissioning model has been effectively used since the CELL team was established (just prior to LGR) and previous to that when the service was run by Cheshire County Council.
- 10.3 During academic year 2013-14 CELL have commissioned £450,000 (circa) on non accredited Community Learning and accredited Adult Skills provision. The provision is accessed by residents of Cheshire East, particularly those who are unemployed, have below level 2 qualifications and/or those who experience barriers to learning.
- 10.4 It is proposed that the Council re-procure for these services in order to sustain provision for the residents of Cheshire East. The tender will be divided into two lots (Community Learning and Adult Skills). The contract term is proposed to run from 1st August 2014 for one year with an option to extend for a further 12 month period. The total proposed contract value over the maximum 2 year contract period will be £1.2m (circa).

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	4 th March 2014
Report of:	Director of Economic Growth & Prosperity
Subject/Title:	Disposal of Land off Earl Road, Handforth (Forward Plan Ref. CE 13/14-79)
Portfolio Holder:	Cllr Peter Raynes, Finance/Cllr Don Stockton, Housing, Planning, Economic Development and Regeneration

1.0 Report Summary

- 1.1 The Council owned land off Earl Road Handforth has been held as a strategic employment site for a number of years. The site is shown edged red on the attached plan and comprises approximately 14 acres.
- 1.2 Subject to appropriate planning consents being in place this has the potential to be an extremely valuable site. Engine of the North (EOTN), the Council's new development company, is ideally positioned to support the Council in maximising the capital receipt that can be generated through this asset as well as delivering investment and employment opportunities.
- 1.3 The site enjoys a very favourable location as it has excellent visibility from the A34 and is a gateway site for the Borough. This means it will be of national interest to a significant number of occupiers, developers, and investors for a wide variety of land uses other than simply employment.
- 1.4 East Cheshire Engine of the North has been instructed to bring this site forward on behalf of the Council as a strategic priority to maximise jobs growth and capital receipts. EotN recently commissioned Deloitte, a leading development consultant, to analyse expressions of interest, to explore any new requirements, and to set out a clear delivery strategy.
- 1.5 In simple terms, EotN's brief from the Council is to accelerate the disposal of this site in line with the Council's corporate objectives and existing and emerging planning policy whilst maximising capital receipts. In order to deliver these objectives in a reasonable timeframe a wider range of land uses should now be considered.

2.0 Recommendations

1. To authorise the Chief Executive or his identified nominee, in consultation with the Cabinet Member for Finance, to take all necessary action to dispose of the Council's landholding at Earl Road, Handforth to maximise capital receipts and deliver jobs on an accelerated timescale.
2. To approve disposal for all potential land uses including employment, retail, leisure and sui generis use such as car showrooms.
3. To take all action necessary, funded from within existing identified budgets, to bring the site forward for development including potentially creating site infrastructure such as spine roads and appropriate utility servicing.

3.0 Reasons for Recommendations

- 3.1 The site has been held for a number of years as a future strategic employment opportunity and is allocated in the saved Macclesfield Local Plan for employment uses.
- 3.2 Next PLC recently obtained a planning approval, without any agreement with the Council in place, for a major retail development covering approximately 3 acres of the site. This permission has now established the principle of mixed use development in this location.
- 3.3 The Deloitte report concludes that delivering an exclusively employment led scheme will be a significant challenge and potentially not viable given the competition from other more preferable/established sites in the area such as Cheadle Royal or ones with future potential for critical mass such as Airport City. The suggested delivery strategy is to promote the site as a high-quality mixed use development with retail and other uses in order to facilitate significant new employment opportunities and generate substantial capital receipts on a redundant site at a key gateway location to the Borough.

4.0 Wards Affected

- 4.1 Handforth

5.0 Local Ward Members

- 5.1 Cllr Burkhill, Cllr Mahon

6.0 Policy Implications

- 6.1 Sustainable development will be a key feature of the marketing and vision for the site disposal/development strategy.

7.0 Financial Implications

- 7.1 The costs of marketing and disposal of the site will be met from the capital receipts generated from the sale.
- 7.2 Any development of the site prior to marketing will be financed from the approved capital budget.

8.0 Legal Implications

- 8.1 Section 123 of the Local Government Act 1972 allows a local authority to dispose of an interest in land on such terms as it considers appropriate subject to obtaining the best consideration reasonable obtainable for the land interest. The Council would need Secretary of State consent to dispose of the site or any part of it (including a serviced plot) at less than the best consideration reasonably obtainable. If the Council does market the site on the basis that only certain uses will be permitted or prohibiting certain uses it could restrict the value of the interest being disposed of meaning that less than best consideration is reasonably obtainable.
- 8.2 However, the Secretary of State has given certain consents of general application to sales at less than best consideration. The Local Government Act 1972 general disposal consent (England) 2003 enables the Council to accept less than best consideration if it considers that the purpose for which the land is to be disposed of is likely to contribute to the achievement of the promotion or improvement of economic, social and/ or environmental wellbeing of the whole or any part of its area or all or any persons resident or present in its area.
- 8.3 If the Council were minded to rely on this general disposal consent or the Secretary of State specifically consented to a disposal at an undervalue the Council has still to fulfil its fiduciary duty to tax payers. Furthermore, foregoing any value could constitute unlawful State Aid under EU law.
- 8.4 Market testing by open competition is the safest way of establishing best consideration. If a disposal without a market process were to be considered the Council should seek independent valuation advice as to whether or not the consideration offered constitutes best consideration and the Council would need to have sound justification for proceeding outside a market process.
- 8.5 Under the Treaty of Rome there has to be fairness and transparency and an even playing field. Early discussions with potential buyers/ tenants could bring into question whether they are eligible to be considered as bidders in a later market process.

- 8.6 If the Council were to intend for there to be any agreement with any buyer / tenant with regard to its development of the site or the part of the site it will purchase/ lease or, potentially, with regard to its future operations then given the likely outturn value of the site to be acquired/ leased to/by the buyer/ tenant the transaction would probably amount to a public contract or concession. In such case, there would have to be an EU compliant competition. Engagement of a development partner in joint venture does not obviate any need to formally procure.
- 8.7 If there is a pure land deal, the EU regulations do not apply but the Council is extremely limited in the protections it can have in the transfer or lease. Effectively, it can have covenants restricting use but little more. Controls arising outside of the land transfer or lease (other than genuine s106 or planning condition controls) are likely to bring the deal within the ambit of the EU regulations.

9.0 Risk Management

- 9.1 By disposing of this asset for a mixed use scheme, it will generate a significantly higher value than for pure employment.
- 9.2 The business case for this disposal/development route is strong as it enables the Council to deliver jobs across a range of uses and a capital receipt more quickly.
- 9.3 Work is underway within EotN to clarify understanding of the planning requirements, development obligations and the site constraints (including ground conditions).

10.0 Background and Options

- 10.1 This asset, which is part of the former 61MU site, is located close to the A34 which a key route between north east Cheshire and Manchester.
- 10.2 It was leased until 2010 to Airparks UK Ltd and was subject to a temporary planning permission. The land has since been unoccupied and there have been ongoing issues with unauthorised access to part of the site.
- 10.3 The site is approximately 14 acres and is considered to be very commercially attractive, for a wide range of uses including retail, leisure and car showroom use given its proximity and ease of access to both Cheshire as well as the Greater Manchester region.
- 10.4 The Council has a clear commitment to promoting growth and employment through the proactive use of its asset base. This site represents an opportunity for the Council to deliver on this commitment and is allocated in the saved Macclesfield Local Plan for employment uses.

- 10.5 In March 2012, a soft market testing exercise was conducted to establish likely demand for this site from the development market. The Council received more than 20 expressions of interest which proposed a range of development schemes, uses and occupiers
- 10.6 EotN, the Council's development company, has been instructed to bring this site forward on behalf of the Council as a strategic priority to maximise jobs growth and capital receipts. EotN recently commissioned Deloitte, a leading development consultant, to analyse expressions of interest, to explore any new requirements, and to set out a clear delivery strategy.
- 10.7 EotN's brief from the Council is to accelerate the disposal of this site in line with the Council's corporate objectives and any new emerging planning policy whilst maximising capital receipts. It is expected that to balance these objectives in a reasonable timeframe a wide range of land uses should be considered.
- 10.8 EotN will on behalf of the Council manage the marketing and disposal process working with leading specialist agents to ensure maximum benefits are achieved for the Council. Dependent on the final preferred land uses, EotN may need to promote the site through the planning process for example through future site allocations work as part of the Local Plan including planning applications. Dependent on the agreed delivery strategy, EotN may take responsibility for preparing the site ready for development, for example by creating core site infrastructure (from within previously approved budgets).

11.0 Access to Information

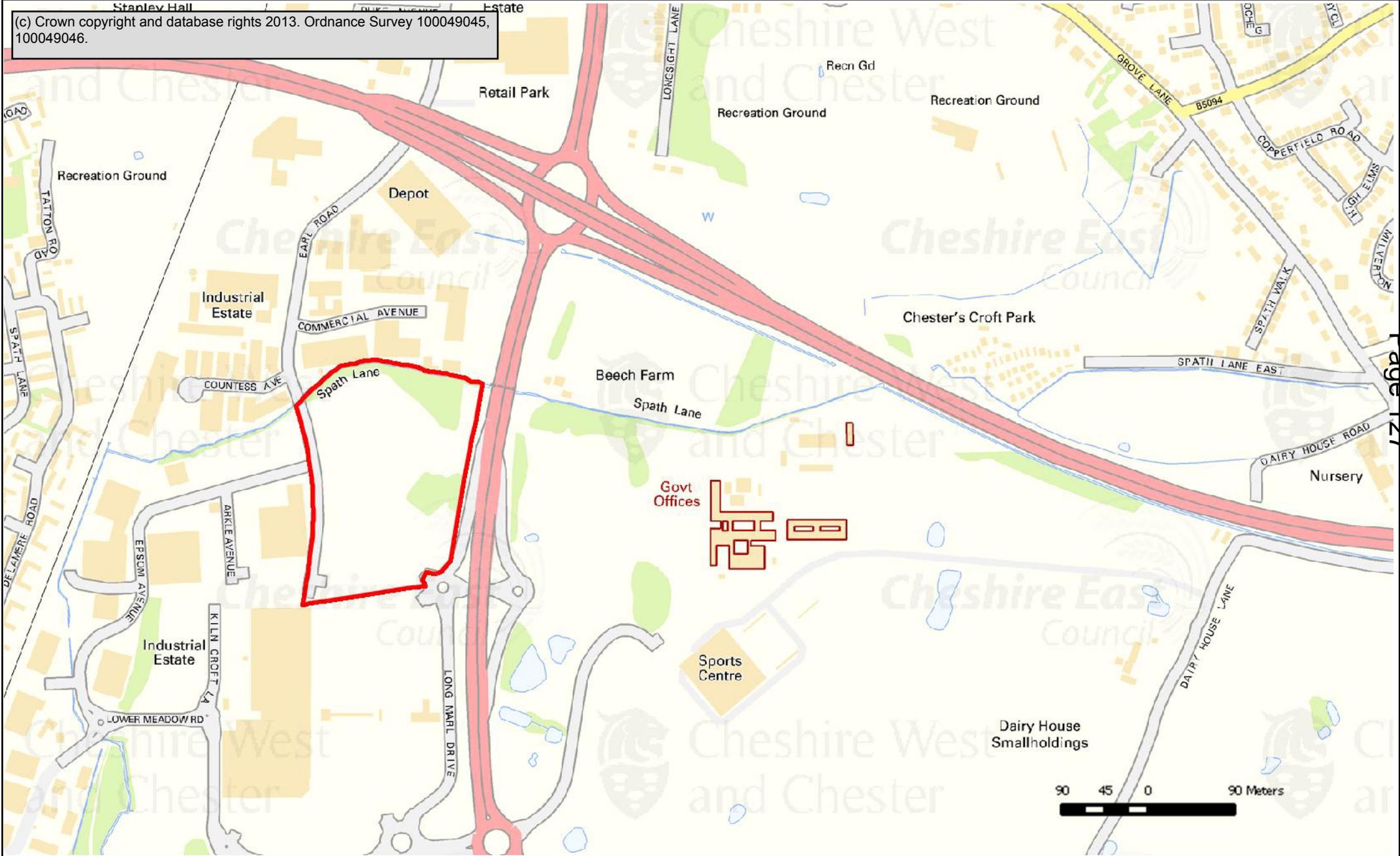
The background papers relating to this report can be inspected by contacting the report writer:

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CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	4 th March 2014
Report of:	Executive Director of Strategic Commissioning
Subject/Title:	Award of Contract for Supported Local Bus Service 88 Altrincham to Knutsford (Forward Plan Ref. CE 13/14-80)
Portfolio Holder:	Cllr David Topping, Environment

1.0 Report Summary

- 1.1 This report seeks approval to award the contract for bus service 88 between Knutsford and Altrincham until 31st March 2019. The full value of this contract is £550,000 and will be fully funded from within the current Public Transport Budget and the Bus Service Operator Grant (BSOG) which has been devolved to the Council from January 2014.
- 1.2 This is the renewal of a current contract.

2.0 Recommendation

- 2.1 That Cabinet approve the award of and subsequently entering into a contract for local bus service 88 Knutsford to Altrincham to the successful tenderer at a total cost of £550,000.

3.0 Reasons for Recommendation

- 3.1 This is the renewal of a contract which is currently in operation. The fully compliant procurement and tender evaluation has identified the successful tenderer as the preferred bidder.

4.0 Wards Affected

- 4.1 Knutsford, Mobberley, Wilmslow West and Chorley, Wilmslow East, Wilmslow Lacey Green

5.0 Local Ward Members

- 5.1 Cllr Stewart Gardiner, Cllr Olivia Hunter, Cllr Peter Raynes, Cllr Jamie Macrae, Cllr Gary Barton, Cllr Wesley Fitzgerald, Cllr Rod Menlove, Cllr Don Stockton

6.0 Policy Implications

- 6.1 The award of the contract falls within the Council's Public Transport Support criteria.

7.0 Financial Implications

- 7.1 The current annual cost of the service is £182,900 (£914,500 for the five year period) which is currently funded from within the Public Transport budget. The total cost of the new contract will be £550,000 a saving of £364,500 over the full term of the contract.
- 7.2 However tenders were sought from operators taking no account of Bus Service Operators Grant (BSOG) which has been devolved to the Council from the Department for Transport (DfT) from January 2014. DfT have previously allocated £35,250 per annum to this route which is ring fenced to Public Transport and is guaranteed until April 2017. This will reduce the cost to the Public Transport budget over the contract period to £444,250

8.0 Legal Implications

- 8.1 The Transport Unit has undertaken a full procurement exercise that complies with the Council's Finance and Contract Procedure Rules and the Public Contracts Regulations 2006 to select a service provider.
- 8.2 The Council has power to award a contract under a number of statutes including the general power of competence under the Localism Act 2011, s.111 of the Local Government Act 1972 and s.1 Local Government (Contracts) Act 1997.
- 8.3 The contract with the service provider will operate on the Council's standard terms and conditions for passenger transport services, which includes provisions to safeguard the Council should the service provider not meet the expected service delivery standards.

9.0 Risk Management

- 9.1 The Council's standard terms and conditions for passenger services allows for termination of contract by either side with notice of 84 days, therefore should finances cease to be available there is a relatively short notice period required
- 9.2 The Council's standard terms and conditions for passenger services lays down service delivery standards and procedures to be applied should these standards not be met.

10.0 Background and Options

- 10.1 The currently the service has 129,000 passenger journey per year and is an important link in the North of the Borough.

10.2 At any time a licensed bus operator can register a commercial bus service with the Traffic Commissioner to operate without financial support from the Council, however no such registration has been received for this service.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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