

# Strategic Planning Board

## Agenda

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**Date:** Wednesday, 19th April, 2017  
**Time:** 10.30 am  
**Venue:** The Capesthorne Room - Town Hall, Macclesfield SK10 1EA

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Please note that members of the public are requested to check the Council's website the week the Strategic Planning Board meeting is due to take place as Officers produce updates for some or all of the applications prior to the commencement of the meeting and after the agenda has been published.

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 in the report.

It should be noted that Part 1 items of Cheshire East Council decision making and Overview and Scrutiny meetings are audio recorded and the recordings will be uploaded to the Council's website.

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

1. **Apologies for Absence**

To receive any apologies for absence.

2. **Declarations of Interest/Pre Determination**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests and for Members to declare if they have a pre-determination in respect of any item on the agenda.

3. **Minutes of the Previous Meeting** (Pages 5 - 12)

To approve the minutes of the meeting held on 22 March 2017 as a correct record.

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**Please Contact:** Sarah Baxter on 01270 686462  
**E-Mail:** [sarah.baxter@cheshireeast.gov.uk](mailto:sarah.baxter@cheshireeast.gov.uk) with any apologies or request for further information  
[Speakingatplanning@cheshireeast.gov.uk](mailto:Speakingatplanning@cheshireeast.gov.uk) to arrange to speak at the meeting

#### 4. **Public Speaking**

A total period of 5 minutes is allocated for each of the planning applications for the following:

- Ward Councillors who are not members of the Strategic Planning Board
- The relevant Town/Parish Council

A period of 3 minutes is allocated for each of the planning applications for the following individuals/groups:

- Members who are not members of the Strategic Planning Board and are not the Ward Member
- Objectors
- Supporters
- Applicants

5. **16/0138M Land at Earl Road, Handforth - Erection of retail and leisure development comprising Class A1 retail units, Class A3 cafes and restaurants, Class D2 gym and Class C1 Hotel for Martin Ridgeway, CPG Developments Ltd (Pages 13 - 36)**

To consider this application.

6. **16/0802M Land at Earl Road, Handforth - Erection of four restaurants and three drive-thru restaurant/cafe's along with associated car parking, servicing and landscaping for Martin Ridgeway, CPG Development Projects Ltd (Pages 37 - 58)**

To consider this application.

7. **16/3284M Land at Earl Road Handforth - Erection of retail floorspace for Martin Ridgeway, CPG Development Projects Ltd (Pages 59 - 72)**

To consider this application.

8. **16/5678M Land at Junction of Earl Road and Epsom Avenue, Handforth - Demolition of existing buildings and erection of five units to be used for Class A1 (Non-food retail) purposes and two units to be used for Use Class A1 (Non-food retail or sandwich shop) and/or Use Class A3 and/or Use Class A5. Creation of car park and provision of new access from Earl Road, together with landscaping and associated works. (Resubmission 15/0400M) for Orbit Investments (Properties) Ltd (Pages 73 - 98)**

To consider this application.

9. **17/0195C Land off Waggs Road, Congleton - The erection of 104 residential dwellings including, including open space, together with associated works including landscaping, the formation of access, site works, necessary engineering works to facilitate highway and footway improvements to Waggs Road and other necessary works for Mr Mike Stone, Bellway Homes Ltd (Manchester Division) (Pages 99 - 122)**

To consider this application.

10. **13/3449C Glebe Farm, Booth Lane Middlewich - Update following the resolution to approve this outline application for residential development for approx 450 dwellings. (Pages 123 - 128)**

To receive this report.

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Strategic Planning Board**  
held on Wednesday, 22nd March, 2017 in The Capesthorne Room - Town  
Hall, Macclesfield SK10 1EA

**PRESENT**

Councillor H Davenport (Chairman)  
Councillor J Hammond (Vice-Chairman)

Councillors B Burkhill, S Edgar(Substitute), T Fox, S Hogben, D Hough, J Jackson,  
J Macrae, M Sewart, L Smetham and J Wray

**OFFICERS IN ATTENDANCE**

Mr A Crowther (Principal Planning Officer), Ms P Evans (Planning and Highways  
Manager of Legal Team), Mr A Fisher (Head of Planning (Strategy), Mr P Griffiths  
(Infrastructure Delivery Manager), Mr S Hannaby (Director of Planning & Sustainable  
Development), Mr P Hurdus (Highways Development Manager), Mr D Malcolm (Head  
of Planning (Regulation)), Mr R Taylor (Principal Planning Officer) and Mr P  
Wakefield (Principal Planning Officer)

**99 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor S Pochin.

**100 DECLARATIONS OF INTEREST/PRE DETERMINATION**

In the interest of openness in respect of applications 16/1824M and 16/4318N,  
Councillor J Hammond declared that he was a Director of ANSA who were  
consultees, however he had not made any comments nor been in any  
discussions relating to the application.

In the interest of openness in respect of agenda item 10 the 'Minerals & Waste  
Development Plan Document-Issues Paper;. Councillor J Hammond declared he  
was a Director of ANSA who deliver waste management services on behalf of the  
Authority but he had not been involved with the compilation of the report.

In the interest of openness in respect of applications 16/1824M and 16/4318N,  
Councillor S Hogben declared that he was a Director of ANSA who were  
consultees, however he had not made any comments nor been in any  
discussions relating to the application.

In the interest of openness in respect of agenda item 10 the 'Minerals & Waste  
Development Plan Document-Issues Paper;. Councillor S Hogben declared he  
was a Director of ANSA who deliver waste management services on behalf of the  
Authority but he had not been involved with the compilation of the report.

In the interest of openness in respect of application 17/0223N, Councillor D  
Hough declared that he was a member of the Board of TSS who had provided  
financial contributions towards bus stops.

It was noted that all Members had received correspondence from the Emmerson group in respect of application 16/5678M.

101 **MINUTES OF THE PREVIOUS MEETING**

**RESOLVED**

That the minutes of the meeting held on 22 February 2017 be approved as a correct record and signed by the Chairman.

102 **PUBLIC SPEAKING**

**RESOLVED**

- (1) That the public speaking procedure be noted.
- (2) That a speaker who had registered out of time in respect of application 16/5678M be allowed to speak.

103 **16/1824M-DEMOLITION OF THE EXISTING BUILDING AND AN OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED EXCEPT FOR MEANS OF ACCESS FOR A MIXED USE DEVELOPMENT COMPRISING RESIDENTIAL DWELLINGS (USE CLASS C3) AND EMPLOYMENT DEVELOPMENT (USE CLASSES B1, B2 AND B8) INCORPORATING AN ELEMENT OF LEISURE USES (USE CLASSES A3 AND A4), TOGETHER WITH ASSOCIATED WOODLAND BUFFER, ECOLOGICAL MITIGATION AND ENHANCEMENTS, OPEN SPACES AND INFRASTRUCTURE, LAND TO THE NORTH OF THE EXISTING RADNOR, LAND AT BACK LANE, CHESHIRE FOR JOHN BROOKS, AINSCOUGH STRATEGIC LAND-**

Consideration was given to the above application.

Prior to the Officer's presentation, Members were informed that the application should make reference to the Radnor Park Trading Estate in Congleton and that reference in the proposal to leisure use should be removed, as A3/A4 Uses are Food and Drink Uses.

(Jon Suckley, the agent for the applicant attended the meeting and spoke in respect of the application).

**RESOLVED**

That for the reasons set out in the report and in the update report to the Board, the application be approved subject to referral to Jodrell Bank, subject to a Section 106 Legal Agreement securing the following:-

- 17.5% of the dwellings to be affordable at 80% discounted market sale.
- Affordable Homes should be pepper-potted (in clusters is acceptable)
- Provision of POS consisting of 6,600sqm Amenity Green Space split into two sites either side of the CLR and a NEAP (1000sqm) standard play facility on each site.

- A commuted sum of £1,343,369 in lieu of Primary, Secondary and SEN education.

Commencement of phase 1 to be restricted until the Council has entered into a construction contract for the full construction of the Congleton Link Road.

- £5,000 for the making of any Traffic Regulation Orders on Chelford Road or Black Firs Lane in support of a 7.5t weight limit on the section of Back Lane between the CLR roundabout and Chelford Road.
- A contribution of £15,000 per dwelling towards the Congleton Link Road in lieu of the full Affordable housing provision (To be provided at 17.5%) as provided for in the submitted Local Plan Strategy (in accordance with Policy 5.235a). The maximum contribution will be linked to the number of houses approved at reserved matters. A minimum or 'floor' condition of £3,090,000 has been agreed with the applicant irrespective of the minimum number of houses delivered.

And subject to the following conditions

1. Commencement of development (3 years) or 2 from date of approval of reserved matters
2. Reserved matters to be approved
3. Approved Plans
4. Materials
5. Landscaping
6. Implementation of landscaping
7. Tree/Hedgerow Protection Measures
8. Occupation of Phase 1 to be restricted until the sectional completion of the length of the Back Lane improvements highlighted in Blue on plan Ref SCP/15116/F02 (or as otherwise agreed in writing with the LPA) has been completed and open for public use.
9. Prior to the occupation of Phase 1 the roundabout as approved in the Congleton Link Road Planning Application will be delivered via a S278 agreement, unless already delivered by the CLR scheme.
10. Prior to commencement of Phase 1 a scheme for the provision of a suitable highway link between the existing Radnor Park estate and new Back lane roundabout be approved by the LPA and implemented prior to first occupation.
11. The full development hereby approved shall not commence until the full CLR is completed and open to public use, to the satisfaction of the LPA.
12. Delivery of footpath linkage to the site boundary adjacent to the Russell Homes site prior to occupation of 50% of the dwellings in this southern parcel.
13. Construction and Environmental Management Plan to be submitted prior to commencement, to include dust control measures.
14. Travel Plan to be submitted prior to occupation of the first dwelling.
15. Delivery of Local Traffic Management Scheme along the section of Back Lane between the CLR roundabout and Chelford Road prior to the bringing into use of any of the employment uses.
16. A scheme for the provision of a footway/cycleway access to the proposed CLR bridge crossing of the River Dane shall be submitted and approved by the LPA. This access link should be provided prior to occupation of 50% of the dwellings of Phase 1.
17. A scheme for the improvement of the existing access track down to the River Dane on the south eastern boundary of the site, shall be submitted and approved by the LPA. The land required to deliver this track and the delivery of the access improvements will be required prior to occupation of 50% of the dwellings of phase 1.

18. Arboricultural Impact Assessment in accordance with Section 5 of BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations which shall include a Tree Protection Scheme
19. Submission of a management plan for the Woodland (including the Ancient Woodland) and Local Wildlife Site.
20. Submission of an updated Badger Survey as part of and reserved matters application.
21. Hedgehog gaps in fencing.
22. Updated GCN mitigation strategy as part of and reserved matters application.
23. Approval of lighting associated with the leisure and commercial uses.
24. Air pollution damage cost calculation and associated mitigation works.
25. Submission of a low emission strategy and timetable for implementation.
26. Electric Vehicle Charging points.
27. Submission of a Residents Travel Information Pack.
28. Measures to minimise impacts from the CLR.
29. Submission of a post demolition Phase II ground contamination and risk assessment together with a remediation report.
30. Control of soils brought onto site.
31. Measures to address contamination should it be expectantly be found during works.
32. Jodrell Bank mitigation measures.
33. Programme of archaeological work as outlined in section 9.67 of Chapter 9: Archaeology and Cultural Heritage of the Environmental Statement.
34. Approval of levels.
35. Submission of a Flood Risk Assessment.
36. Drainage strategy/design in accordance with the appropriate method of surface water drainage chosen.
37. Foul and surface water drained on separate systems.
38. Broadband provision

Informative: As part of the overall development a footbridge should be provided.

In the event of any changes being needed to the wording of the Board's decision (such as to delete, vary or addition conditions / informatives / planning obligations or reasons for approval / refusal) prior to the decision being issued, the Head of Planning (Regulation), in consultation with the Chairman of the Strategic Planning Board is delegated the authority to do so, provided that he does not exceed the substantive nature of the Board's decision.

104      **16/4318N-OUTLINE PLANNING PERMISSION FOR UP TO 100 RESIDENTIAL DWELLINGS TO INCLUDE ACCESS. ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION, LAND OFF PARK ROAD, WILLASTON FOR MR BROWN, STRETTON WILLASTON LTD**

Consideration was given to the above application.

(A statement was read out on behalf of Councillor S Pochin, the Ward Councillor).

**RESOLVED**

That the Board be minded to refuse the application for the following reasons:-

1. The proposed residential development is unacceptable because it is located within the Open Countryside, contrary to Policies NE.2 (Open Countryside) and RES.5 (Housing in Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan, Policy PG 5 of the Cheshire East Local Plan Strategy Submission Version - 2016 and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.

2. In the opinion of the Local Planning Authority, the proposed development would cause a significant erosion of the Green Gap between the built up areas of Willaston and Nantwich and would adversely affect the visual character of the landscape which would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policy NE4 (Green Gaps) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and guidance contained within the NPPF.

3. The proposal would result in loss of the best and most versatile agricultural land. The use of the best and most versatile agricultural land is inefficient and contrary to Policy NE12 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and Policy SE2 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of the National Planning Policy Framework.

For the purposes of the appeal, a Section 106 Legal Agreement be entered into in order to secure the following:

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:

- The numbers, type, tenure and location on the site of the affordable housing provision
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

2. Provision of a contribution of £290,640 towards Secondary Education and a SENs school place

3. Provision of POS and a LAP/LEAP and a scheme of management

4. Private management company to maintain all on-site open space, including footpaths and habitat creation area in perpetuity

In addition it was agreed that the possibility of a further reason for refusal on the grounds of spatial distribution should be delegated back to the Head of Planning (Regulation) in consultation with the Chairman and Vice Chairman of the Strategic Planning Board for investigation.

In order to give proper effect to the Board's intentions and without changing the substance of the decision, authority is delegated to Head of Planning (Regulation), in consultation with the Chairman of the Strategic Planning Board, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

(The meeting adjourned for lunch between 12.35pm until 1.15pm).

105        **16/5678M-DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF FIVE UNITS TO BE USED FOR CLASS A1 (NON-FOOD RETAIL) PURPOSES AND TWO UNITS TO BE USED FOR USE CLASS A1 (NON-FOOD RETAIL OR SANDWICH SHOP) AND/OR USE CLASS A3 AND/OR USE CLASS A5. CREATION OF CAR PARK AND PROVISION OF NEW ACCESS FROM EARL ROAD, TOGETHER WITH LANDSCAPING AND ASSOCIATED WORKS. (RESUBMISSION 15/0400M), LAND AT JUNCTION OF EARL ROAD AND EPSOM AVENUE, HANDFORTH FOR ORBIT INVESTMENTS (PROPERTIES) LTD**

Consideration was given to the above application.

(Nicole Roe, representing Peel Holdings, objecting and Graham Bee, the agent for the applicant attended the meeting and spoke in respect of the application).

**RESOLVED**

That the application be deferred in order to allow the application to be considered by the Strategic Planning Board at the same time as other live applications for retail development in the local area.

(This decision was contrary to the officer's recommendation of approval).

106        **17/0223N-FULL APPLICATION FOR A PROPOSED NEW WAREHOUSE UNIT WITH ANCILLARY OFFICE/ WELFARE, ASSOCIATED LANDSCAPING, PARKING, SERVICE YARD AND ACCESS. EXTERNAL WORKS TO EXISTING 'CREWE 2' UNIT TO SOUTH OF SITE, LAND SOUTH OF, WESTON ROAD, CREWE FOR MR PAUL COOK**

Consideration was given to the following application.

**RESOLVED**

That for the reasons set out in the report and in the update to the Board the application be approved subject to the completion of a Section 106 Agreement or Unilateral Undertaking to secure the following Heads of Terms:-

1.        £5,000 towards the monitoring of the Travel Plan

And subject to the following conditions:-

1.        Time (3 years)
2.        Plans

3. Materials as per application
4. Prior approval of detailed design, management and maintenance of surface water drainage
5. Prior submission / approval of staff travel plan
6. Electric charging points for cars
7. Land contamination
8. Landscape – Details
9. Landscape – Implementation
10. Boundary treatment – Details
11. Development in accordance with FRA
12. Sustainable drainage management/surface water drainage
13. Nesting birds
14. The development hereby approved shall not commence until the great crested newt mitigation scheme (as detailed within the GCN Mitigation Strategy prepared by TEP dated March 2017 or as otherwise varied by a subsequent Natural England license) has been carried out and implemented and retained in full.  
*Reason: To safeguard protected species in accordance with the NPPF.*
15. Breeding birds
16. Habitat management plan
17. External lighting
18. Construction Management Plan
19. Bus stop upgrades
20. Levels – existing and proposed including site sections
21. Scheme of protection for retained trees

Informative: Contaminated Land

(Councillor D Hough requested it be minuted that he was delighted to see that in respect of this application existing employment sites could be included in the Local Plan).

In the event of any changes being needed to the wording of the Board's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning (Regulation) has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Board's decision.

Should this application be the subject of an appeal, authority be delegated to the Head of Planning (Regulation) in consultation with the Chairman of the Strategic Planning Board to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

107      **CHESHIRE EAST LOCAL PLAN: COMPLIANCE WITH SECTION 35 OF THE PLANNING AND COMPULSORY PURCHASE ACT 2004 AND REGULATION 34 OF THE TOWN AND COUNTRY PLANNING (LOCAL PLANNING) (ENGLAND) REGULATIONS 2012**

Consideration was given to the above report.

**RESOLVED**

1. That the Portfolio Holder for Housing and Planning be recommended to approve the Cheshire East Local Plan Authority Monitoring Report for 2015/16 for publication.

2. That a report on the Conservation Area Assessment be brought to a future meeting of the Board.

108 **MINERALS & WASTE DEVELOPMENT PLAN DOCUMENT - ISSUES PAPER**

Consideration was given to the above report.

**RESOLVED**

That the Portfolio Holder for Planning and Housing be recommended to give his approval for consultation on the Minerals and Waste Development Plan Document Issues Paper, alongside a 'call for sites' to inform the allocation of any sites for development within the MWDPD.

The meeting commenced at 10.00 am and concluded at 3.40 pm

Councillor H Davenport (Chairman)

Application No: 16/0138M

Location: LAND AT, EARL ROAD, HANDFORTH

Proposal: Erection of retail and leisure development comprising Class A1 retail units, Class A3 cafes and restaurants, Class D2 gym and Class C1 Hotel.

Applicant: Martin Ridgway, CPG Development Projects Limited

Expiry Date: 18-Apr-2016

### **SUMMARY**

The justification for policy E2 of the local plan explains that retailing is not permitted (on existing employment sites) because it would reduce the amount of employment land available and provision is made elsewhere for retailing. It is acknowledged that the proposal would generate a significant number of jobs; however it is not considered that the merits of the proposal should solely be judged by the numbers of jobs it creates. B8 uses are an employment use and do not typically generate the same number of jobs as a B1 or B2 use with a comparable floorspace.

Employment allocations are important to provide land for substantial buildings (including warehouse buildings) that cannot be located elsewhere such as in town centres or countryside locations.

The proposal will result in the loss of employment land at a time when the Council is actively allocating additional employment land as part of its emerging local plan. The need for sites is such that even Green Belt locations are currently being identified for future employment purposes in the north of the Borough. The loss of the application site would exacerbate this situation and place further pressure to locate sites within the Green Belt.

Despite the identified substantial benefits it is considered that the applicants have failed to demonstrate that there is no reasonable prospect of the site being used for employment purposes. The proposal is therefore contrary to policies E1 and E2 of the Macclesfield Borough Local Plan, policy EG3 of the CELPS and paragraph 22 of the Framework.

Accordingly the application is recommended for refusal.

### **SUMMARY RECOMMENDATION**

**Refuse**

### **PROPOSAL**

The application seeks outline planning permission for the construction of 23,076sqm of class A1 retail floorspace and 2,274sqm of class A3/A5 floorspace along with associated car parking, access and servicing arrangements and landscaping. This application seeks approval for access, appearance, layout and scale, with landscaping reserved for subsequent approval.

The application has been amended and reduced in scale since the original submission in January 2016. The amendments include the removal of the originally proposed hotel.

It should be noted that there is a separate application for part of this site referred to as Phase 2 (application 16/0802M). However, the larger retail scheme (the subject of this application) encompasses both Phase 2 and Phase 3 as a single application.

### **SITE DESCRIPTION**

The application site comprises 4.8 hectares of open employment land as identified in the Macclesfield Borough Local Plan. The site lies within the Stanley Green Business Park / Industrial Estate, to the east of the A34 Handforth bypass adjacent to the Handforth Dean Retail Park.

### **RELEVANT HISTORY**

There have been a number of applications for mixed use developments on the site since 1995, which have included proposals for cinema, leisure and retail development. All of which were refused.

The most relevant of these was:

83294P – Erection of retail warehousing – Refused 04.04.1996, Appeal dismissed 23.11.1998

The most recent planning permission on the site was:

04/1091P - Renewal of planning permission 01/2683P for use of land for car parking from 01/04/05 to 31/03/10 – Approved 17.06.2004

On the wider site

16/0802M - Erection of four restaurants and three drive-thru restaurant/cafe's along with associated car parking, servicing and landscaping – not yet determined (Phase 2)

16/3284M - Erection of retail floorspace – not yet determined (Phase 1B)

12/4562M - Erection of Class A1 retail store with conservatory, garden centre, ancillary coffee shop and associated car parking – Approved 23.10.2014

On the adjacent site off Epsom Avenue

16/5678M - Demolition of existing buildings and erection of five units to be used for Class A1 (Non-food retail) purposes and two units to be used for Use Class A1 (Non-food retail or sandwich shop) and/or Use Class A3 and/or Use Class A5. Creation of car park and

provision of new access from Earl Road, together with landscaping and associated works. (Resubmission 15/0400M) – not yet determined

15/0400M - Demolition of existing buildings and erection of five units to be used for Class A1 (Non-food retail) purposes and two units to be used for Use Class A1 (Non-food retail or sandwich shop) and/or Use Class A3 and/or Use Class A5. Creation of car park and provision of new access from Earl Road, together with landscaping and associated works – Refused (loss of employment land) 08.03.2016 – Appeal scheduled for June 2017

### **NATIONAL & LOCAL POLICY**

#### **National Policy**

The National Planning Policy Framework (the Framework) establishes a presumption in favour of sustainable development. The Framework sets out that there are three dimensions to sustainable development: economic, social and environmental. These roles should not be undertaken in isolation, because they are mutually dependent.

Of particular relevance are paragraphs:

22 (long term protection of employment sites)

24, 26 and 27 (town centres)

#### **Local Plan Policy**

Macclesfield Borough Local Plan (MBLP) -

NE9 (River corridors)

NE11 (Nature conservation interests)

BE1 (Design principles for new developments)

E1 (Employment land)

E3 (Employment land – business)

E4 (Employment land – industry)

T3 (Improving conditions for pedestrians)

T5 (Provision for cyclists)

IMP1 (Provision for infrastructure)

IMP2 (Need for transport measures)

DC1 (High quality design for new build)

DC2 (Design quality for extensions and alterations)

DC3 (Protection of the amenities of nearby residential properties)

DC5 (Natural surveillance)

DC6 (Safe and convenient access for vehicles, special needs groups and pedestrians)

DC8 (Requirements to provide and maintain landscape schemes for new development)

DC9 (Tree protection)

#### **Neighbourhood Plan policy**

The Handforth Neighbourhood Plan is at the early stages of formulation and has had its Neighbourhood Area Designation confirmed (Regulation 7) but there are no policies material to the current application at this time.

#### **Other Material Considerations**

National Planning Practice Guidance

Cheshire East Local Plan Strategy – Proposed Changes Version (CELPS)

The following are considered relevant material considerations as indications of the emerging strategy:

SD1 Sustainable Development in Cheshire East

SD2 Sustainable Development Principles

EG3 Existing and Allocated Employment Sites

EG5 Promoting a Town Centre First Approach to Retail and Commerce

### **CONSULTATIONS**

**United Utilities** – No objections subject to conditions relating to drainage

**Environment Agency** – No objections subject to condition relating to drainage of hardstanding areas.

**Natural England** – No comments to make

**Manchester Airport** – Comments awaited

**Environmental Health** – No objections subject to conditions relating to pile driving, floor floating, dust control, travel planning, electric vehicle infrastructure and contaminated land.

**Head of Strategic Infrastructure** – No objections subject to conditions relating to highways improvements and a planning obligation to fund the monitoring of the travel plan.

**Flood Risk Manager** – Comments awaited

**Public Rights of Way** – No objection subject to advice note on developer's obligations regarding public right of way.

**Stockport MBC** – Object on the following grounds:

- Other sites should be included in sequential assessment
- More flexibility of the scheme's format could be demonstrated
- Proposal will impact upon ongoing investment in Stockport at Redrock, Stockport Exchange, Merseyway, Market Place and the Underbanks
- Impact should be assessed up to ten years from the time the application is made.
- Retail assessment looks at impact on the comparison goods sector only
- Applicant does not consider the impact of the proposal on Stockport's District Centres
- Stockport Town Centre has a high vacancy rate
- Scope to significantly adversely impact on Bramhall, Cheadle and Cheadle Hulme District Centres

**Wilmslow Town Council** - Expressed concerns about the likely increase in traffic congestion on neighbouring roads which would also be exacerbated by additional housing nearby as identified in the Cheshire East Local Plan.

**Handforth Parish Council** – Strongly support the application as it will provide welcome employment opportunities in Handforth, and with the discontinuation of the 378 bus service, provide employment within walking distance from the residential areas of the parish.

## REPRESENTATIONS

9 letters of representation have been received objecting to the original plans on the following grounds:

- Impact on traffic levels
- Generic reference in transport assessment on cycle and pedestrian access
- Local footpaths could be upgraded
- Impact on local centres
- Need for co-ordinated and fully informed assessment of all out of centre retail applications
- Contrary to town centre first policy
- Proposal will not promote sustainable travel
- Scheme will simply relocate existing employment opportunities
- Inadequate parking and servicing
- Loss of wildlife habitat
- Additional landscaping required to Earl Road
- No evidence that catchment area takes account of SEMMMS link road, therefore catchment area incorrectly drawn
- If catchment is incorrect then sequential site assessment should be widened
- Flexibility of form not demonstrated
- Without identifying the need that a development seeks to serve it is impossible to demonstrate flexibility of form
- Need levels not identified
- Sequential assessment flawed and inadequate
- Risk of a diversion of investment by retailers to the proposed development, e.g. Debenhams in Macclesfield
- As anchor shopping centre for regional centre (Manchester) impact upon Arndale Centre should be quantified and examined
- Anomalies between the levels of trade draw felt by centres. Applicant does not appear to have followed a like-impacting like methodology as prescribed by NPPG.
- No assessment of how SEMMMS will affect trade draw rates
- Turnover rates appear to be incorrect, for example, the turnover levels for Stanley Green and Altrincham Retail Parks seem very low
- Proposal would have a material affect on the retail hierarchy of the area
- Total net comparison goods floorspace at Handforth Dean would be greater than that in Macclesfield and Altrincham town centres
- Emerging local plan only identifies local scale retail for this area
- No marketing information submitted to demonstrate site no longer required for employment purposes
- Residents of High Peak likely to choose proposed development over Stockport Town Centre following completion of SEMMMS (both are same distance from High Peak)
- Impact on planned investment in Stockport
- The floor space for Peel Centre has been double counted within applicant's assessment
- Impact on Peel Centre and Stockport Town Centre should be examined as a combined entity

44 letters of support have been received from local residents noting that the development will:

- Support local job creation
- Creates 1200 jobs when operational and 300 jobs during construction
- Create additional business revenue for the Council
- Traffic will be well managed / improvements to road network
- Provide a better range of shops locally
- Bring investment to the area
- People will not have to drive as far, e.g. to the Trafford Centre
- Suitable location with access to public transport links
- Provides enhanced wildlife environment
- Is a good plan for a brownfield site
- Will make a positive contribution to Handforth
- Encourages shoppers to stay local
- Currently £250m in local retail spend leaves Cheshire every year in places such as the Trafford Centre
- Developer will enter into partnerships with local colleges to ensure local people will benefit from the jobs.

A second round of public consultation has taken place following the receipt of revised plans. Further representations will be reported as an update.

### **APPLICANTS SUBMISSION**

The following documents accompany the planning application, and can be viewed in full on the application file:

- Marketing Activity Report
- Retail Impact Assessment Reports
- Design & Access Statement
- Surface Water Drainage Strategy
- Tree Survey Report
- Environmental Site Investigation Reports
- Biodiversity Offsetting Report
- Ecological Assessment
- Nesting Bird Survey
- Employment Land Market Report
- Flood Risk Assessment
- Transport Assessment
- Landscape Report

### **APPRAISAL**

The key issues in the determination of this application are:

- Loss of employment land
- Retail impact
- Highways safety and traffic generation
- Ecological impact

## **ECONOMIC SUSTAINABILITY**

### **Economic Benefits**

The applicant has identified the following economic benefits arising from the proposal:

The Employment Densities Guide 3rd Edition has been used to estimate the likely number of full time equivalent (FTE) jobs that would be created by the proposed development.

The employment density for the main anchor unit has been based on the figures published by Next for their similarly sized store which has recently opened on the southern section of the wider site. To estimate the remainder of the retail units, an appropriate mid-point between high-street and retail warehousing has been used, which is considered to be a reasonable assumption given the nature of the proposed development and its likely tenant line-up. The figures for the restaurant and drive-thru units are based upon the standard A3 employment density figures provided.

On the basis of these assumptions, the development will generate approximately 730 FTE jobs in addition to the 200 created by Next. Overall, both developments will provide 930 FTE jobs which contribute significantly to the 31,400 jobs forecast to 2030 for Cheshire East.

The proposed development will bring the vacant site back into use and provide approximately 730 additional jobs when operational. Based on the revised jobs growth, the proposed development will generate approximately 2.3% of the borough's overall employment need to 2030 and 47% of the average annual forecast. The applicant has also indicated that they are willing to agree a local employment plan, in order to maximise employment opportunities for local people. A similar approach was adopted with the Next scheme.

As a substantial retail scheme, the proposed development would also make a significant contribution to the economy of Cheshire East, with more expenditure being retained in the Borough.

These are considered further, below, in the planning balance.

### **Loss of Employment Land**

The application site is located within an Existing Employment Area as identified in the Macclesfield Borough Local Plan. The last use of the site was as airport parking, which ceased in 2010 and the site has since remained vacant.

Employment Areas are defined in the glossary to the Macclesfield Borough Local Plan as:  
*The existing and proposed areas which are intended to cater for a mix of employment development including general industry, business uses and storage and distribution (see elsewhere in Glossary for more detailed definitions of these classes of employment development). The primary purpose of an employment area remains employment. For the avoidance of doubt, retailing is excluded from the definition of employment.*

Policy E1 of the Macclesfield Borough local plan states that "Both existing and proposed employment areas will normally be retained for employment purposes" and policy E2 states that "On existing and proposed employment land, proposals for retail development will not be

permitted". It is therefore clear that the proposal is contrary to policies in the adopted development plan.

Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The Framework is a significant material consideration and includes a presumption in favour of sustainable development. Paragraph 14 states development proposals that accord with the development plan should be approved without delay, and; that where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly outweigh the benefits, when assessed against the policies in the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

Policies E1 and E2 of the Macclesfield Borough Local Plan are considered to be consistent with the Framework to the extent that they seek to provide and retain a range of employment land in order to facilitate sustainable economic growth. However, paragraph 22 of the Framework states that, "Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose". Policy E1 does state that "both existing and proposed employment areas will normally be retained for employment purposes". Use of the word "normally" does suggest that there may be occasions when employment land could be used for alternative purposes, as with paragraph 22.

In the Cheshire East Local Plan Strategy, Employment Land is defined as:

*Land identified for business, general industrial, and storage and distribution development as defined by Classes B1, B2 and B8 of the Employment Land Town and Country Planning (Use Classes) Order 1987. It does not include land for retail development nor 'owner specific' land.*

Policy EG3 of the emerging local plan strategy also seeks to protect existing employment sites for employment use, unless there are environmental problems that cannot be mitigated or the site is no longer suitable or viable for employment use. For it to be no longer suitable or viable, there should be no potential for modernisation or alternate employment uses, and no other occupiers can be found. The footnote to this policy states to demonstrate that no other occupiers can be found, the site should be marketed at a realistic price reflecting its employment status for a period of not less than 2 years. The emerging local plan is at an advanced stage and therefore this policy can be afforded significant weight.

With regard to the employment land issue, the applicant makes reference to the fact that the site has been allocated for employment purposes for 20 years and that within that time, not one planning application has been made for employment uses. The application is accompanied by a Marketing Activity Report prepared by Engine of the North, which looks at the marketing of the site between 2011 and 2015.

It should be noted that the land is owned by the Council and has been marketed by its own development company 'Engine of the North'. This is a separate entity to the Council acting as Local Planning Authority.

This report concludes that:

- Marketing Boards have been present on site since 2012 and have generated very limited end user interest for Employment Uses.

- In March 2012, the Council directly sought general expressions of interest as part of a soft marketing exercise. A wide variety of proposals from developers and occupiers were received.
- In 2014-2015 and in accordance with a Cabinet resolution, the site was marketed for a wide variety of potential land uses including employment, retail, leisure and sui generis uses such as car showrooms.
- This generated substantial interest and a large number of offers. No offers were received from any Employment occupiers either for part of the site or the whole.
- Only one offer was received to develop the whole site for Employment Use, but was not supported by named end users. This was also the lowest offer received, creating an issue for the Council in terms of its legal obligation to achieve best value. In addition, the offer was conditional on a site investigation. Ground conditions were known to be poor and the low residual value indicated by the offer limited the ability of the proposal to absorb abnormal costs whilst remaining financially viable. The developer who submitted this offer is no longer trading.
- Offers based on mixed use proposals were, for the most part, retail/leisure schemes with around 2-3 acres set aside for Employment Use.
- The option of selling the site in individual lots was not pursued beyond the first round of bids. It was initially believed that this approach might yield the highest overall value for the Site as a whole but on examination this proved not to be the case.
- A second round of bids was held in October 2014. 10 developers were shortlisted. In all instances, the offers submitted were based on a comprehensive retail/leisure scheme with no Employment Uses.

In addition to this, an Employment Land Market Report has also been submitted by the applicant, which notes that:

- NPPF discourages the retention of sites in an employment allocation if there is no reasonable prospect of it coming forward for that use
- Release of the application site would not only benefit Handforth but also Cheshire East's wider employment needs in the Borough
- Employment land review dated 2012 identifies a potential shortfall of employment land 51 hectares, however subsequent studies undertaken in 2015 and 2016 identify potential additional sites, which would provide up to 4 times the required land supply.
- Employment land take up has historically been 13.54 hectares per annum but only 3.28 hectares of this has been in the northern part of the borough, in which the site is located.
- There have been structural changes within the office market, meaning that the application site will never be brought forward for a flagship B1 office development. Out-of-town office development is now only likely to happen on the premier business parks in the area and there is an ample supply of these in the marketplace in which the site sits
- Speculative office development that has taken place on an adjacent plot to the application site which was constructed over seven years ago, has never been occupied.
- The application site is in the north of the borough where there is significantly less demand for industrial land. The industrial logistics market is concentrated in the south

of the borough, a fact highlighted by both Arup and Ekosgen in their reports on Employment Land, and reflected in the employment land take-up figures

- Recent current and future demand for industrial and logistics premises is more than likely to be concentrated on the motorway corridors away from residential accommodation due to the requirements for excellent access and 24/7 usage.
- As demand increases for these prime sites there will be a resultant decrease in the take up of secondary sites, which are more suited to smaller local businesses. The application site has all the characteristics of a secondary site, in that it is in a mixed-use location near to retail and remote from the motorway network.
- Recently available existing industrial units closest to the application site have been taken up by leisure uses, including a gym and trampoline centre
- Due to the secondary nature of the site and the abnormal costs of development, the site is not a viable for continued employment use. The applicant has undertaken a viability analysis of the site for employment and their findings are that, due to the constraints of the site and the market for the location, it will never be delivered for employment use.
- The loss of this site from employment will not have a detrimental effect on the supply of existing employment land and there are still high quality office development sites in preferential locations close by. Furthermore, there are development sites which are more suited for smaller industrial and warehouse uses, with an ample supply of existing buildings to meet any demand in the area in which the application site is located.

The applicant's overall conclusion is that having regard to all of the above information, demand does not exist for this type of floorspace in this location and there is therefore no reasonable prospect of the site being used for that purpose.

The report on the marketing of the site covers a period from 2010 when the site was marketed on a short-term leasehold basis. This exercise did not lead to any short term lettings, but did generate interest from parties wishing to buy. This included interest from companies, some of them local, who were looking for employment floor space within the Borough. It is not explained why the site was marketed only on a short term leasehold basis at that time, and such a strategy may have deterred other interested parties, such as those looking for more long term commitments, pursuing their interest in the site any further. The report also states that the Council responded to the interest they did receive by considering alternative ways of delivering suitable floor space. This resulted in a paper being taken to Cabinet in November 2011. Therefore, rather than capitalising upon the interest that had been shown in 2010, the marketing appears to have stalled until March 2012, which may have led to the loss of the previous interest shown in the site.

No specific details of the 2012 marketing exercise have been provided. Therefore, whilst it is noted marketing boards were erected around the site it is not clear if these boards acknowledged the employment allocation of the land, whether the site offered a generic development opportunity or whether the site was being marketed at a price that reflected its employment status. It is however accepted that neither of the 2 parties who expressed interested in employment use on part of the site in 2012 pursued their interest through to a formal offer.

Limited interest during this time cannot have been entirely unexpected when the UK was gradually leaving a significant period of recession in 2008 and 2009.

A report commissioned by the Council and prepared by Deloitte apparently identified (the report has not been submitted with the application) that a development containing only offices and light industrial uses would be unviable in the current market. As a result of this, the formal marketing activity between 2014 and 2015 explicitly moved away from employment uses and the Council's cabinet approved the disposal of the site "*for a range of potential land uses, including employment, retail, leisure and sui generis use such as car showrooms*", despite the allocation in the local plan remaining as employment land.

The incorporation of these wider uses within the marketing material for a site owned by the Council may have deterred other potential employment use occupiers from expressing an interest. Would a potential occupier seeking a warehouse development make an offer when faced with competition from potential retail users who would undoubtedly make higher offers?

Consequently, only 1 out of 28 offers received from this campaign consisted entirely of employment uses. The higher offers received were based on exclusively retail / leisure schemes. As the marketing report notes the Council has a legal obligation to obtain best value from the sale. Typically, this obligation is discharged by accepting the highest price. In this case, the highest offers were for retail proposals, which would be significantly more profitable than an employment use. Whilst a further consideration is the likelihood of the sale completing, and it is relevant that all of the offers were conditional, with most being conditional on planning and site investigation, it is reasonable to conclude that in a bidding war, high profile retail uses would always prevail over employment uses. It is considered that in this case best value should also reflect the employment allocation of the site, and that the Council's wish or "obligation" to secure the highest price for the land appears to have influenced the marketing strategy for the site. This limits the weight that can be afforded to the marketing of the site.

The applicant maintains that the site is not viable for an employment use, notably due to the ground conditions, and the additional costs this incurs. A viability appraisal has been provided for small and mid-box industrial and warehouse uses, which results in a loss of just under £5.1 million rendering development for employment use unviable. The appraisal is however very high level and appears to adopt a broad brush approach to the assessment and figures included within it.

In addition the applicant's Employment Land Market Report notes that there is a relatively weak market and continued availability of significant amounts of high quality office space in the prime business parks of south Manchester, which makes the application site unattractive for potential office uses.

In terms of industrial and logistics uses, the applicant explains that there is a two-tier market. The first tier are those prime sites mainly comprising large greenfield areas close to motorway junctions and remote from retail and housing providing excellent accessibility. The second tier includes those sites catering for the local market and closer to historic industrial areas where there has been a decline in activity and some redevelopment for alternative uses, principally housing and retail or leisure. The take up of these sites is very slow and

investment into many of these sites has been minimal for many years. The applicant considers that the application site sits very firmly in the second tier.

Whilst these comments are acknowledged, the applicant's marketing report does state that the site is widely acknowledged to occupy a prime location, prominent, adjacent to the A34 and next to Tesco / M&S. The site has excellent access into Manchester City Centre along the A34, the M60 is approximately 4 miles to the north of the site along the A34, and the completions of the SEMMMS link road will also improve accessibility to the airport and the M56.

It should also be noted that the employment land requirement in the emerging local plan, which was originally based upon the 2012 Employment Land Review (ELR) undertaken by Arup, has increased from the previously proposed 351ha within the submission version of the Local Plan Strategy to a gross requirement now of 378ha. This new higher figure is based on the latest (2014) Cheshire & Warrington Econometric Model (CWEM) employment projections, as opposed to the 2011 figures that the Council's 2012 ELR was based upon.

The employment evidence base collated by the Council to support the proposed quantum and distribution of land to meet employment requirements includes a report by Ekosgen called 'Alignment of Economic, Employment & Housing Strategy'. This report (July 2015) assesses levels of potential employment growth over the Local Plan period in light of the publication of updated economic projections; and the associated implications for employment land requirements, including Cheshire East's ability to capture such growth, based on the area's historic performance and the availability of employment land and associated infrastructure.

This report notes that with regard to the distribution of the additional 27ha of employment land, it is noted that the north of the Borough will continue to be attractive to businesses keen to be based in locations with easy access to Manchester City Centre. As such there is a strong case to allocate a substantial proportion of any additional land to the north of the Borough.

The proposed distribution of employment land across the Northern settlements of Cheshire East has been accordingly increased in the Proposed Changes Version of the Local Plan Strategy.

The proposed level identified for Handforth is 22ha, which includes 12ha within the proposed North Cheshire Growth Village, plus an additional 10ha. The latest iteration of the Local Plan Strategy notes that on 31 March 2013 there was a supply of 9.72ha (which includes the application site), leaving 0.28ha to be found via the site allocations process to meet the 10ha requirement. However, it should be noted that the supply also appears to include the site of the new Next store, and as such the area to be identified through the site allocations may be higher.

The Local Plan Strategy is expected to be adopted later this year, and already the Council is faced with proposals that have implications upon the amount of employment land identified to be required from the period to 2030. The loss of this site to a non-employment use would require alternative allocations to be made, which given the constraints of the northern part of the Borough is likely to require the removal of land from the Green Belt, which should not be done except in exceptional circumstances.

As noted above, the marketing strategy of the site as detailed by the Engine of the North submission (on behalf of the applicant) may have had the potential to deter potential employment occupiers, when the opportunity of retail development on the land is presented to the market, and makes the site more attractive to non-conforming users, that have much deeper pockets. The lack of interest over recent years could also be a consequence of market confidence due to the particular timing of the proposal in the years following the recession in 2008/2009. Added to this, the emerging Local Plan is seeking to set the blueprint for Cheshire East to 2030, and is therefore a long term strategy, which would be undermined by the loss of required employment land at these initial stages of the plan. Having regard to these matters, there is not considered to be any material planning considerations to justify the loss of the application site as employment land at this time. The proposal is therefore contrary to policies E1 and E2 of the Macclesfield Borough Local Plan and policy EG3 of the emerging Cheshire East Local Plan Strategy.

### **Retail Impact**

Policy S2 of the Macclesfield Borough Local Plan deals with proposals for new retail development outside of existing centres. This policy includes that there should be a proven need for the proposal. However, the Framework supersedes this and does not require applicants to demonstrate the need for the development. The Framework does require that proposals demonstrate that they satisfy both the sequential test and the impact assessment tests. Paragraph 27 of the Framework is clear that where an application fails to satisfy the sequential test or is likely to have significant adverse impacts, it should be refused.

On this basis, the Council need to be satisfied that there are no more sequentially preferable sites available and that there would not be a significant adverse impact on investment in centres within the catchment of the proposal or on town centre vitality and viability. The Council have obtained specialist retail advice on this proposal from White Young Green (WYG), and the issues raised by them to the original scheme are briefly summarised below.

In relation to the sequential approach to development and noting recent Judgments and appeal precedent in respect of the application of the test, it is not considered that any of the sites identified by the applicant would be available and suitable to accommodate the proposed development, either in part or as a whole, even when applying a sufficient degree of flexibility.

In terms of impact of the proposal upon existing, committed and planned private or public sector investment in a centre or centres in the catchment area of the proposal, some concerns were raised with regard to the potential impact of the proposed development on the Silk Street scheme in Macclesfield and the Redrock scheme in Stockport.

Turning to town centre vitality and viability, WYG had outstanding concerns with regard to the potential impact of the proposal on both Stockport and Macclesfield town centres. Overall, it was concluded that the original proposal had the potential to have a significant adverse impact on the defined centre of Stockport and does not have sufficient information to conclude that the proposal will not have a significant adverse impact on Macclesfield town centre.

These concerns relating to the impact of the development upon Stockport and Macclesfield town centres has been the subject of detailed discussions between the applicant, officers and the Council's retail consultant. As a result the scheme has been reduced in scale and whilst a final updated appraisal is awaited from the Council's retail consultant, it is expected to demonstrate that there will be no significant impact upon these centres.

These updated details are currently the subject of a period of public consultation and final scrutiny by the Council's retail consultant so a more detailed appraisal of the retail impact will be provided as an update.

In addition, since the deferral of application 16/5678M, it is now necessary to consider the cumulative retail impact of the current proposal together with application 16/5678M. Further details are awaited from the applicant and the applicant for 16/5678M, and again will be reported as an update.

### **ENVIRONMENTAL SUSTAINABILITY**

#### **Character and appearance**

The application site is located within an Employment Area which is characterised by buildings built more for function than form. The proposed retail units adopt a similar form to the existing Next unit, but will have some variation in height and materials. The larger units will have a stone finish with substantial glazed elements and aluminium louvres to the upper sections of the front elevations. The smaller units are finished in brick with two-storey glazed frontages. The restaurant units in the centre of the site serve to break up the expanse of the car park, together with tree and shrub planting, and provide a public square with outdoor seating. Pedestrian connections are provided to the Public Right of Way to the north, to Earl Road to the west and to the wider Handforth Dean Retail Park to the south. The design is considered to be of a relatively high standard for a retail development, befitting this prominent site at the gateway to Cheshire East, and is in keeping with the local area. The proposal is therefore considered to comply with policies BE1 and DC1 of the local plan.

#### **Amenity**

There are no residential properties within close proximity of the application site. As such, no significant amenity issues are raised.

#### **Noise**

Environmental Health initially recommended a condition requiring a noise impact assessment to be submitted due to the proximity of the hotel to the A34. The hotel has now been removed from the scheme and the noise assessment is therefore not necessary.

In addition due to there not being any residential properties within the vicinity of the site, conditions relating to pile foundations are not considered to be necessary.

#### **Air Quality**

Environmental Health also recommends conditions relating to the submission and implementation of a travel plan, electric vehicle infrastructure and dust control which are considered to be necessary to ensure that local air quality is not adversely affected.

#### **Highways**

The Head of Strategic Infrastructure has provided the following comments on the application:

### Safe and suitable access

From the north, vehicular access will be taken via the dumbbell roundabouts beneath the A34, between the A34 / Coppice Way junction and the A555 grade-separated junction. From the south, vehicles will access via Coppice Way and Long Marl Drive. Access to the development will be via an existing five arm priority controlled roundabout junction with the A34 / Handforth Dean Retail Park. In order to accommodate the proposed development, improvements are proposed to the site access junction. Improvements will include the addition of a second circulatory lane, a left turn slip from the site access into the A34 northbound merge and the widening of the approach arm onto the roundabout from under the A34 resulting in an acceptable access strategy.

Service vehicle access to the proposed development will be via a dedicated service vehicle access off Earl Road as per planning application 12/4652m (the existing Next store's planning permission).

Servicing of the cafes and restaurants will take place, through the car park, via the customer access off A34 / Handforth Dean Retail Park northern access / egress.

The proposed development would be supported by the provision of 557 car parking spaces, including 39 disabled spaces and six electric charging spaces. In addition, 12 motorcycle parking spaces will also be provided and cycle parking for up to 60 cycles. The Head of Strategic Infrastructure raises no objections to this level of parking provision.

### Network Capacity

Travel demand associated with the proposed uses has been estimated based on gross floor area (GFA) using trip rates derived from the TRICS database. These rates have been agreed and utilised in the VISSIM modelling work that has been undertaken to assess the impact of the vehicular traffic from the development on the operation of the surrounding public highway network at year of opening and five years in to the future. In addition standalone junction capacity assessments have taken place at the following junctions at Weekday PM and Saturday peak period using appropriate software (in brackets):

- Stanley Road/ Earl Road – LINSIG;
- A34/ B5094/ Stanley Road – ARCADY;
- A34/ A555 Manchester Airport Eastern Link Road – ARCADY;
- A34/ Handforth Dean Retail Park northern access/ egress – ARCADY;
- A34/ Handforth Dean Retail Park southern access – ARCADY.

As part of the assessment process it was imperative to ensure that the proposed retail development did not result in severe harm (NPPF context) to the operation of the highway network and did not prejudice the development of the North Cheshire Growth Village (NCGV) (site CS30 in the emerging Local Plan Strategy).

The VISSIM modelling illustrated that the development could be accommodated on the highway network and does not stymie the NCGV as mitigation in the form of widening at A555 interchange to provide 4 lanes on the northern and southern sides of the circulatory

roundabout achieves this, accordingly it would be appropriate to require this mitigation to be brought forward as part of the NCGV proposals.

In order to accommodate the proposed development, and to ensure that any delays are within acceptable levels, demonstrated by being contained within acceptable modelled service levels, improvements are required to the site access junction and the Coppice Way roundabout. Improvements proposed include the addition of a second circulatory lane, a left turn slip from the site access into the A34 northbound merge and the widening of the approach arm onto the roundabout from under the A34. In addition mitigation at the Coppice Way roundabout is proposed involving the realignment and signalisation which will accommodate development traffic, future background growth and the North Cheshire Growth Village strategic plan site (CS30) at the future year assessment timeline.

The above mitigations assume that the Poynton Relief Road is in place however in the event that this is not the case a sensitivity test has been undertaken modelling the eventuality that this road is not delivered in the envisaged timeframe. These results have demonstrated that even without the relief road in place the proposed development can be accommodated on the highway network within acceptable network operational tolerances.

In summary the VISSIM traffic modelling has demonstrated that, with the proposed mitigations in place, the development is acceptable from a network capacity perspective.

### Accessibility

The site is served by an hourly bus service along Earl Road (Mondays to Saturdays 0800-1800) linking the site to residential areas to the north of the site and Stockport town centre. Apart from this service the nearest are those along Wilmslow Road and Station Road in Handforth (together with the train station), about a kilometre away, which provide services to other destinations including Manchester and Wilmslow. However, pedestrian routes to these facilities are such that they may deter some people using these options during hours of darkness.

The transport assessment confirms that a travel plan will be prepared to encourage staff and customers to use of other forms of transport. However, without adequate provision for non-car modes, a travel plan will be largely ineffective.

To improve sustainable access obligations to enhance the existing bus service / infrastructure along Earl Road are contained within the 'Next' planning permission which will be payable given that this development has been implemented. In addition, it was identified as part of the Orbit proposals on the opposite side of Earl Road that contributions towards bus stops in the vicinity, improvements to provision for pedestrians and cyclists in the vicinity and a contribution towards public transport improvements were required. These measures were originally secured as part of the approved (and extant) office development on the Orbit site. In the event that all the current retail proposals are approved, careful consideration will need to be given to who is required to contribute what towards these improvements as part of a s106 agreement, given the limited public transport options that are currently available.

In addition to pedestrian and cycle access via the main vehicular access off the A34/ Handforth Dean Retail Park northern access/egress, the applicant has stated that they are proposing to provide an additional dedicated pedestrian/ cycle access off Earl Road, in the

vicinity of the consented Next store and a connection to Spath Lane via the bridge under the A34. The applicant will also enhance the footway link at the southern end of Earl Road to facilitate access into the existing retail development to the south. However, further clarification is required on the specific details of this.

### Highways conclusion

The results of the traffic modelling, along with the sustainable measures discussed above, demonstrate that the proposed development is acceptable from a network operational performance and connectivity perspective subject to conditions relating to the improvement of the Coppice way roundabout, the site access and footpath access to the wider retail park.

This assessment has made comment on the area that falls within the jurisdiction of Cheshire East Council; the assessment of the impact of this development on areas that fall outside of the jurisdiction of Cheshire East Council will need to be made by the relevant highway authority. In terms of the impact upon the Cheshire East Highway network, for the reasons outlined above the proposal is considered to be acceptable.

Comments from Stockport MBC Highways are awaited.

### **Ecology**

The nature conservation officer has provided the following comments on the application:

#### Woodland

The woodland towards the north of the site appears upon the national inventory of priority habitats. Woodlands of this type are a material consideration for planning. In addition woodland habitats are also present in the eastern half of the application site. These woodlands support a number of characteristic floral species.

A line of more mature trees is present on the eastern boundary of the site which appear to have been associated with a former historic hedgerow, whilst the bulk of the woodland appears to have started to become established in the 1980s.

With the exception of the more mature trees on the eastern boundary and a narrow strip of woodland along the stream to the north the bulk of the woodland habitats (covering approximately 1.6ha) would be lost as a result of the proposed development. Macclesfield Borough Local Plan policy NE7 seeks to retain and enhance existing woodlands. The loss of the woodland from the site is therefore clearly contrary to this policy

The nature conservation officer's initial recommendation was that the scheme should be amended to allow for the retention of the existing woodland in order to avoid a loss of biodiversity as a result of the development of this site. However, as an alternative mitigation options have been explored to compensate for the impact.

In order to inform the amount of compensatory habitat required as mitigation 'The Biodiversity Impact Assessment Calculator' has been used. This assessment calculator has been developed by Warwickshire County Council as part of the offsetting pilot project. The use of this calculator as a way to quantify the mitigation requirement was agreed with the nature conservation officer.

The nature conservation officer has confirmed that the offsetting calculation appears to be undertaken appropriately and the results of the assessment broadly reflect the nature conservation value of the woodland lost. A commuted sum £180,000 for the current application (phase 2 and 3 of the proposals combined) is required to mitigate for the impact.

Of course in order for the financial contribution to be of any use, a site needed to be identified that could accommodate the mitigation proposals. As woodland is being lost, albeit plantation woodland, this should be replaced with at least a proportion of new woodland planting. Woodland in the Cheshire East area is considered to be a rare habitat feature and therefore its value for biodiversity is considered to be high. 9.6ha of replacement woodland habitat is required, and as noted above, the associated costs for this have been calculated to be £180,000. This allows for set up costs, woodland creation and for 30 years of management and maintenance costs.

Following discussions with the Council's Countryside and Ranger Service, an area of land known as Dean Valley has been identified as an appropriate mitigation site. The valley follows a section of the River Dean, which extends from Station Road in Styal to Styal Road in Wilmslow. The Council have aspirations to improve the biodiversity value of this area, with a long term goal of developing a Country Park connecting up Styal to the Wilmslow area.

The proposals outlined above do provide appropriate mitigation for the loss of the broad leaved plantation woodland on the application site.

### Bats

The submitted ecological report identifies a number of trees with bat roosting potential. It appears likely that a number of these trees would be lost as a result of the proposed development. The applicants were asked to carry out and submit further bat surveys to assess the potential impacts of the proposed development upon roosting bats. Further surveys were carried out which confirmed that no bat roosts were present within any of the trees, and therefore there are no further implications with regard to roosting bats.

### Nesting Birds

Protected and priority ground nesting bird species have been recorded as either breeding or attempting to breed on the application site. This includes 2 pairs of Lapwing (priority species) and 1 pair of Little Ringed Plover (protected). The proposed development will result in the total loss of the suitable habitat present on the site for these species.

An updated nesting bird survey has confirmed the continued presence of nesting Little Ringed Plover so if planning consent was granted compensatory habitat for this species would also be required. It is anticipated that this would take the form of an appropriately designed green roof, and a condition requiring details of this to be submitted for approval is therefore recommended.

### Badgers

Badgers are known to occur in this broad locality, but no evidence of badgers was recorded during the submitted survey. Badgers are therefore not currently considered to present a constraint on the proposed development.

However, if planning permission is granted a condition is recommended requiring the undertaking and submission of an updated survey prior to the commencement of the development.

### **Trees and landscape**

The submitted tree survey identified 66 individual trees and eight groups of trees and shrubs within the application site. Two strips of woodland are located within the site, one strip of woodland follows the eastern boundary of the site adjacent to planting that forms the embankment of the adjacent A34 bypass, and the second follows the northern boundary adjacent to Spath Brook.

Trees within the site are not protected by a Tree Preservation Order or lie within a Conservation Area. The northern woodland (part G2, G3, G4 and G5) adjacent to Spath Brook is identified as a priority habitat in the National Forest Inventory (NFI) – Spath Lane corridor.

Trees have been categorised in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations with four individual trees (3 Oak and 1 Beech; 13, 22, 38 and 33) of High quality and value (A category) and 24 individual trees and 7 groups of trees of moderate quality and value (B category).

The remaining low quality and value trees (C) category should not necessarily be a constraint but should however be considered for retention where development allows.

Eleven trees were identified as poor quality (U category), which are in such a condition that they cannot be retained in the context of the current land use including several Oak with significant dieback and poor quality Birch and Willow.

It is anticipated that most (if not all) high, moderate and low category trees including woodlands along the northern and eastern boundaries of the site will be directly lost to accommodate the development. The retention of optimal canopy cover is an integral part of the requirement to meet national climate change adaptation and resilience strategies and whilst the submitted landscape strategy identifies a proposed narrow strip of Oak and Beech planting within the site adjacent to the northern access road and specimen planting within proposed car parking areas and adjacent to internal roads it is unlikely to be sufficient to compensate for the loss of the woodland and local canopy cover.

Macclesfield Borough Local Plan policy NE7 seeks to retain and enhance existing woodlands. The loss of the woodland from the site is therefore clearly contrary to this policy. However, as noted above in the Ecology section of this report appropriate mitigation is provided on a much larger scale in a location where the future of new woodland planting can be secured into the future.

### **Flood Risk**

The Environment Agency (EA) has noted that the layout for the proposed development shows woodland/screen planting and access vehicles adjacent to the southerly bank of Handforth Brook, which is acceptable in principle. The layout for the proposed development indicates a proposed crossing over Handforth Brook, just downstream of the A34 subway at the north-

east corner of the site. This proposed crossing over the brook will require consent from the EA as will any proposed surface water outfall structure into Handforth Brook.

Surface water is being proposed to discharge directly to in Handforth Brook, and the EA recommend a condition requiring surface water draining from areas of hardstanding to be passed through an oil separator or series of oil separators.

The Flood Risk Manager has requested clarification on a number of points relating to drainage, which have now been provided, and further comments are awaited.

### **Contaminated land**

The Contaminated Land team has no objection to the above application subject to the following comments with regard to contaminated land:

- The application area has a history of depot and military use and therefore the land may be contaminated.
- Various reports have been submitted in support of the application. These reports make recommendations for further works to be undertaken prior to and during the development:
  - Areas of the site have potentially been used for waste disposal in the past (in particular around TP2 and evidence also in TP6-11 in the TerraFirma investigation). We would expect these areas to be remediated so as to not pose an environmental or geotechnical risk to the proposed development. Evidence of free-phase hydrocarbon contamination was encountered in TP2 around an old fridge. Due to the unknown age of this fridge, coolants used in the past such as Freon may be present in these soils – this, and the potential for further buried wastes in this area, should be discussed further. If necessary, further investigations in this area should be undertaken to more fully understand the ground conditions and the potential risks to identified receptors.
  - Site investigations and assessments have demonstrated a low potential risk to the proposed development from ground gas risks. As such, no gas protection measures are considered necessary for this site.
  - A detailed methodology for dealing with asbestos impacted soils should be provided to us prior to development commencing.
  - A radiation method statement has been submitted previously and comments raised on the method statement have been addressed by the radiological consultant. This method statement and the results of the subsequent comments should be adhered to during site works.

In the event of approval, appropriate conditions would be required.

### **SOCIAL SUSTAINABILITY**

#### **Open space**

Having regard to the Council's SPG on Planning Obligations the development does trigger the requirement for open space contributions in lieu of on site provision, as the development will create some demand for open space / recreation facilities. These contributions amount to £376,460 for open space and £376,460 for outdoor sport and recreation. Given the location of the site and its distance to existing facilities that would be utilised by staff and customers of

the proposed development, the impact upon them unlikely to be so significant that it would require mitigation amounting to the sums identified above. For the Next scheme and the Orbit scheme in this area, the requirements were factored down to provide a more realistic figure to mitigate for the impact of the development. Discussions are ongoing with the applicant in this regard.

### **PLANNING BALANCE**

The application site is allocated as an Existing Employment Site in the Macclesfield Borough Local Plan where policies E1 and E2 seek to provide and retain a range of employment land in order to facilitate sustainable economic growth. Policy EG3 of the emerging Local Plan Strategy also seeks to protect existing employment sites for employment use, unless premises are causing nuisance or environmental problems, or the site is no longer suitable or viable for employment use.

Paragraph 22 of the Framework states that, "Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose".

Paragraph 14 states development proposals that accord with the development plan should be approved without delay, and; that where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly outweigh the benefits, when assessed against the policies in the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The aforementioned policies are considered to be consistent with the Framework, and the proposal is not in accordance with these policies. Therefore the key issue is whether there are other material considerations that would outweigh the policy presumption against this development.

There are very clear benefits arising from the proposal in that the development will bring a vacant site into active use and provide approximately 730 additional jobs when operational. Added to this will be the benefits arising from construction jobs, benefits to the construction industry supply chain, potential for increased trade for local businesses, and higher levels of economic activity within Cheshire East. These factors taken together, but particularly the creation of this number of jobs in the context of the local plan goal of creating 31,400 jobs to 2030, is a significant benefit of the proposal that does carry substantial weight.

It should also be acknowledged that the standard of design and materials to be adopted is above that, which is normally expected for a retail development, and the scheme would provide a development that is appropriate to its position at the northern gateway of the Borough. Moderate weight can be afforded to this.

In terms of neutral impacts, the ecological and tree issues are considered to be appropriately mitigated. The mitigation for this also feeds into the wider aspirations of the Council to create a Country Park on the land area identified as the mitigation site. Whilst comments from Stockport MBC Highways are awaited, the highways impact upon Cheshire East highways

has been found to be acceptable subject to appropriate improvement works. The impact upon residential amenity / noise / air quality and contaminated land is either acceptable or could be mitigated through the imposition of planning conditions.

Comments from the Flood Risk Manager are awaited, however it is not anticipated that there will be any significant drainage implications raised by this development.

The retail impact upon existing centres, both as an individual development and in terms of the cumulative impact with other developments is still to be concluded. Clearly, preventing the continued leakage of retail spend out of the Borough is a positive benefit but the planning system exists to guide sustainable development to appropriate locations and allowing this development could act as a precedent for the loss of other allocated employment sites in other towns for retail purposes. Any recommendation will be subject to the outcome of this outstanding work which will be reported as a written update.

Weighing heavily against the benefits identified above is the loss of employment land.

The justification for policy E2 of the local plan explains that retailing is not permitted (on existing employment sites) because it would reduce the amount of employment land available and provision is made elsewhere for retailing. It is acknowledged that the proposal would generate a significant number of jobs. Although it is not considered that the merits of the proposal should be judged solely by the numbers of jobs it creates, the creation of 730 FTE jobs is a large number and must be given significant weight.

Employment sites are allocated to create a range of good quality employment opportunities that will drive the future economic growth of the Borough, supporting business sectors that are key to the future economic success of the Borough. Employment uses are defined as the 'B class' employment uses, namely office, light industrial, general industrial and storage and distribution uses. It is accepted that within those uses, some sites and 'B' uses will result in fewer jobs than others, but they all fit in within and integrated economy. For example, B8 uses are an employment use and do not typically generate the same number of jobs as a B1 or B2 use with a comparable floorspace. Employment allocations are important to provide land for substantial buildings (including warehouse buildings) that cannot be located elsewhere such as in town centres or countryside locations.

Our economic strategy is about providing better jobs. Handforth is close to the airport and has a synergy with other sites within the locality and wider region. We are already under pressure to provide more high quality employment sites and are having to allocate green belt sites to achieve this. The removal of a good employment site that is not in the green belt makes no sense in terms of our economic strategy. Given the extent of Green Belt in the northern part of the Borough, the loss of the application site would exacerbate this situation and place further pressure to locate sites within the Green Belt.

The viability appraisal seeks to demonstrate that the site is not viable but this is a very high level assessment, and for this reason can only be afforded limited weight. In recent years the marketing appears to have been directed away from employment uses, to more open ended possibilities, which has led to interest from developers with retail aspirations, against which employment operators cannot compete. Employment operators are effectively priced out of the site, when the Council is "obligated" to secure the highest price for the site and best value.

This is combined with the timing of the Council looking to dispose of the site in a period of economic uncertainty.

For these reasons it is not considered that it has currently been demonstrated that there is no reasonable prospect of the site being used for the allocated employment use in accordance with paragraph 22 of the Framework. Similarly, it has not been demonstrated that the site is no longer suitable or viable for employment use, there is no potential for modernisation or alternate employment uses and that no other occupiers can be found in accordance with policy EG3 of the CELPS.

Consequently, there are currently no material planning considerations that would outweigh the normal presumption against non-employment uses contained within policy E1 of the MBLP. The proposal is therefore also contrary to policy E2 of the MBLP.

### RECOMMENDATION

It is recommended that the application is refused for the following reason:

- 1. The proposal will lead to a loss in the amount of employment land in the Borough, at a time when the Council is allocating Green Belt sites through the local plan process to provide adequate employment land to meet the needs of the Borough to 2030. This is considered to significantly and demonstrably outweigh the benefits of the proposal. It has therefore not been satisfactorily demonstrated that there is no reasonable prospect of the site being used for employment purposes, as required by paragraph 22 of the NPPF and policy EG3 of the emerging Cheshire East Local Plan Strategy. The proposed development is therefore contrary to policies E1 and E2 of the Macclesfield Borough Local Plan, policy EG3 of the Proposed Changes Version of the emerging Cheshire East Local Plan Strategy and paragraph 22 of the Framework.**

*In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning (Regulation) has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.*

Should this application be the subject of an appeal, the Head of Planning Regulation will be seeking delegated authority to enter into a S106/S111 agreement. Given that comments from Stockport MBC are awaited and it is likely that there will be an impact upon their highway network, the full list of Heads of Terms, and assessment against the CIL Regulations, will be reported as an update.



Application No: 16/0802M

Location: Land at Earl Road, Handforth

Proposal: Erection of four restaurants and three drive-thru restaurant/cafe's along with associated car parking, servicing and landscaping.

Applicant: Martin Ridgway, CPG Development Projects Limited

Expiry Date: 19-May-2016

**SUMMARY**

The justification for policy E2 of the local plan explains that retailing is not permitted (on existing employment sites) because it would reduce the amount of employment land available and provision is made elsewhere for retailing. It is acknowledged that the proposal would generate a significant number of jobs; however it is not considered that the merits of the proposal should be judged solely by the numbers of jobs it creates. B8 uses are an employment use and do not typically generate the same number of jobs as a B1 or B2 use with a comparable floorspace.

Employment allocations are important to provide land for substantial buildings (including warehouse buildings) that cannot be located elsewhere such as in town centres or countryside locations.

The proposal will result in the loss of employment land at a time when the Council is actively allocating additional employment land as part of its emerging local plan. The need for sites is such that even Green Belt locations are currently being identified for future employment purposes in the north of the Borough. The loss of the application site would exacerbate this situation and place further pressure to locate sites within the Green Belt.

Despite the identified benefits it is considered that the applicants have failed to demonstrate that there is not reasonable prospect of the site being used for employment purposes. The proposal is therefore contrary to policies E1 and E2 of the Macclesfield Borough Local Plan, policy EG3 of the CELPS and paragraph 22 of the Framework.

Accordingly the application is recommended for refusal.

**SUMMARY RECOMMENDATION****Refuse****PROPOSAL**

The application seeks outline planning permission for the erection of four Class A3 restaurant units and three Class A3/A5 units with associated access, car parking, servicing and hard and soft landscaping. The units will provide a total floor area of 2,274sqm of class A3/A5 floorspace. This application seeks approval for access, appearance, layout and scale, with landscaping reserved for subsequent approval.

Amended plans that reduce the floorspace from 2,427sqm to 2,274sqm (measured internally) have been submitted during the course of the application together with additional supporting information.

It should be noted that although separate applications have been submitted, this application is part of a phased approach to development on the wider site and is referred to as Phase 2. However, the larger retail scheme (16/0138M) encompasses both Phase 2 and Phase 3 as a single application.

### **SITE DESCRIPTION**

The application site comprises 1.25 hectares of open employment land as identified in the Macclesfield Borough Local Plan. The site lies within the Stanley Green Business Park / Industrial Estate, to the east of the A34 Handforth bypass adjacent to the Handforth Dean Retail Park.

### **RELEVANT HISTORY**

There have been a number of applications for mixed use developments on the site since 1995, which have included proposals for cinema, leisure and retail development. All of which were refused.

The most relevant of these was:

83294P – Erection of retail warehousing – Refused 04.04.1996, Appeal dismissed 23.11.1998

The most recent planning permission on the site was:

04/1091P - Renewal of planning permission 01/2683P for use of land for car parking from 01/04/05 to 31/03/10 – Approved 17.06.2004

On the wider site

16/0138M - Construction of 23,076sqm of class A1 retail floorspace and 2,274sqm of class A3/A5 floorspace along with associated car parking, access and servicing arrangements and landscaping – not yet determined (Phase 2 & 3)

16/3284M - Erection of retail floorspace – not yet determined (Phase 1B)

12/4562M - Erection of Class A1 retail store with conservatory, garden centre, ancillary coffee shop and associated car parking – Approved 23.10.2014

On the adjacent site off Epsom Avenue

16/5678M - Demolition of existing buildings and erection of five units to be used for Class A1 (Non-food retail) purposes and two units to be used for Use Class A1 (Non-food retail or sandwich shop) and/or Use Class A3 and/or Use Class A5. Creation of car park and provision of new access from Earl Road, together with landscaping and associated works. (Resubmission 15/0400M) – not yet determined

15/0400M - Demolition of existing buildings and erection of five units to be used for Class A1 (Non-food retail) purposes and two units to be used for Use Class A1 (Non-food retail or sandwich shop) and/or Use Class A3 and/or Use Class A5. Creation of car park and provision of new access from Earl Road, together with landscaping and associated works – Refused (loss of employment land) 08.03.2016 – Appeal scheduled for June 2017

### **NATIONAL & LOCAL POLICY**

#### **National Policy**

The National Planning Policy Framework (the Framework) establishes a presumption in favour of sustainable development. The Framework sets out that there are three dimensions to sustainable development: economic, social and environmental. These roles should not be undertaken in isolation, because they are mutually dependent.

Of particular relevance are paragraphs:

22 (long term protection of employment sites)

24, 26 and 27 (town centres)

#### **Local Plan Policy**

Macclesfield Borough Local Plan (MBLP) -

NE9 (River corridors)

NE11 (Nature conservation interests)

BE1 (Design principles for new developments)

E1 (Employment land)

E3 (Employment land – business)

E4 (Employment land – industry)

T3 (Improving conditions for pedestrians)

T5 (Provision for cyclists)

IMP1 (Provision for infrastructure)

IMP2 (Need for transport measures)

DC1 (High quality design for new build)

DC2 (Design quality for extensions and alterations)

DC3 (Protection of the amenities of nearby residential properties)

DC5 (Natural surveillance)

DC6 (Safe and convenient access for vehicles, special needs groups and pedestrians)

DC8 (Requirements to provide and maintain landscape schemes for new development)

DC9 (Tree protection)

#### **Neighbourhood Plan policy**

The Handforth Neighbourhood Plan is at the early stages of formulation and has had its Neighbourhood Area Designation confirmed (Regulation 7) but there are no policies material to the current application at this time.

## **Other Material Considerations**

National Planning Practice Guidance

### **Cheshire East Local Plan Strategy – Proposed Changes Version (CELPS)**

The following are considered relevant material considerations as indications of the emerging strategy:

SD1 Sustainable Development in Cheshire East

SD2 Sustainable Development Principles

EG3 Existing and Allocated Employment Sites

EG5 Promoting a Town Centre First Approach to Retail and Commerce

## **CONSULTATIONS**

**United Utilities** – Not consulted but no objections subject to conditions raised to larger scheme comprising the same development (16/0138M)

**Environment Agency** – No requirement to consult the Environment Agency in this instance

**Natural England** – No comments to make

**Environmental Health** – No objections subject to conditions relating to odour control, pile driving, floor floating, dust control, electric vehicle infrastructure and contaminated land.

**Head of Strategic Infrastructure** – No objections subject to conditions and a planning obligation to secure financial contributions for the monitoring of a travel plan

**Flood Risk Manager** – Comments awaited

**Stockport MBC** – Object on the following grounds:

- The numerous A3 and A3/A5 units would need to serve a wider than ancillary function to be viable
- Applicant's catchment area is therefore too small
- Impact of SEMMMS should be assessed
- Many sites in Stockport over which the proposal could be accommodated if disaggregated
- Proposal fails the sequential test
- Rushden Lakes decision not comparable with proposal
- More flexibility of the scheme's format could be demonstrated
- Proposal will impact upon ongoing investment in Stockport at Redrock, Stockport Exchange, Covent Garden Village, Merseyway, and Market Place and the Underbanks
- Impact should be assessed up to ten years from the time the application is made.
- Stockport has an identified shortage of quality restaurants
- Applicant does not consider the impact of the proposal on Stockport's District Centres
- Stockport Town Centre has a high vacancy rate
- Scope for further impacts than those identified above e.g. in the event that A1 use occupies the A3 use element via permitted change and by any unit sub-division

**Handforth Parish Council** – Oppose the application due to the high levels of traffic such a development would generate in this area. Councillors were also concerned about the impact of this new development on existing retailers.

### **REPRESENTATIONS**

3 letters of representation have been received from interested parties objecting to the original plans on the following grounds:

- Need for co-ordinated and fully informed assessment of all out of centre retail applications
- Site is unsustainable for delivery of additional town centre uses
- No evidence that catchment area takes account of SEMMMS link road, therefore catchment area incorrectly drawn
- Without identifying the need that a development seeks to serve it is impossible to demonstrate flexibility of form
- If catchment is incorrect then sequential site assessment should be widened
- Impact assessment flawed - Turnover rates appear to be incorrect
- Scale of the proposed development is at odds with the retail hierarchy of Cheshire East and the surrounding area.
- Premature given draft stage of Cheshire East Local Plan and it is at odds with the strategy for providing additional retail floorspace within the emerging plan
- The case for releasing the site from its employment allocation has not been adequately made.
- The delivery of the restaurants and drive-thrus cannot take place unless the main retail proposals (application 16/0138M) is also brought forward.
- A3 uses in this location would increase the attraction of the facility and ensure that Earl Road has a quantum of floorspace akin to a sub-regional centre

A second round of public consultation has taken place following the receipt of revised plans. Further representations will be reported as an update.

### **APPLICANTS SUBMISSION**

The following documents accompany the planning application, and can be viewed in full on the application file:

- Marketing Activity Report
- Retail Impact Assessment Reports
- Design & Access Statement
- Surface Water Drainage Strategy
- Tree Survey Report
- Environmental Site Investigation Reports
- Biodiversity Offsetting Report
- Ecological Assessment
- Nesting Bird Survey
- Employment Land Market Report
- Flood Risk Assessment
- Transport Assessment

## **APPRAISAL**

The key issues in the determination of this application are:

- Loss of employment land
- Retail impact
- Highways safety and traffic generation
- Ecological impact

## **ECONOMIC SUSTAINABILITY**

### **Economic Benefits**

The applicant has identified the following economic benefits arising from the proposal:

The Employment Densities Guide 3rd Edition has been used to estimate the likely number of full time equivalent (FTE) jobs that would be created by the proposed development. The employment density for restaurant and drive-thru units are based upon the standard A3 employment density figures provided.

The proposed development will bring the vacant site back into use and provide approximately 126 additional FTE jobs when operational. The applicant has also indicated that they are willing to agree a local employment plan, in order to maximise employment opportunities for local people. A similar approach was adopted with the Next scheme.

This is considered further, below, in the planning balance.

### **Loss of Employment Land**

The application site is located within an Existing Employment Area as identified in the Macclesfield Borough Local Plan. The last use of the site was as airport parking, which ceased in 2010 and the site has since remained vacant.

Employment Areas are defined in the glossary to the Macclesfield Borough Local Plan as:

*The existing and proposed areas which are intended to cater for a mix of employment development including general industry, business uses and storage and distribution (see elsewhere in Glossary for more detailed definitions of these classes of employment development). The primary purpose of an employment area remains employment. For the avoidance of doubt, retailing is excluded from the definition of employment.*

Policy E1 of the Macclesfield Borough local plan states that “Both existing and proposed employment areas will normally be retained for employment purposes” and policy E2 states that “On existing and proposed employment land, proposals for retail development will not be permitted”. It is therefore clear that the proposal is contrary to policies in the adopted development plan.

Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The Framework is a significant material consideration and includes a presumption in favour of sustainable development. Paragraph 14 states development proposals that accord with the development plan should be approved without delay, and; that where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would

significantly outweigh the benefits, when assessed against the policies in the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

Policies E1 and E2 of the Macclesfield Borough Local Plan are considered to be consistent with the Framework to the extent that they seek to provide and retain a range of employment land in order to facilitate sustainable economic growth. However, paragraph 22 of the Framework states that, "Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose". Policy E1 does state that "both existing and proposed employment areas will normally be retained for employment purposes". Use of the word "normally" does suggest that there may be occasions when employment land could be used for alternative purposes, as with paragraph 22.

In the Cheshire East Local Plan Strategy, Employment Land is defined as:

*Land identified for business, general industrial, and storage and distribution development as defined by Classes B1, B2 and B8 of the Employment Land Town and Country Planning (Use Classes) Order 1987. It does not include land for retail development nor 'owner specific' land.*

Policy EG3 of the emerging local plan strategy also seeks to protect existing employment sites for employment use, unless there are environmental problems that cannot be mitigated or the site is no longer suitable or viable for employment use. For it to be no longer suitable or viable, there should be no potential for modernisation or alternate employment uses, and no other occupiers can be found. The footnote to this policy states to demonstrate that no other occupiers can be found, the site should be marketed at a realistic price reflecting its employment status for a period of not less than 2 years. The emerging local plan is at an advanced stage and therefore this policy can be afforded significant weight.

With regard to the employment land issue, the applicant makes reference to the fact that the site has been allocated for employment purposes for 20 years and that within that time, not one planning application has been made for employment uses. The application is accompanied by a Marketing Activity Report prepared by Engine of the North, which looks at the marketing of the site between 2011 and 2015.

It should be noted that the land is owned by the Council and has been marketed by its own development company 'Engine of the North'. This is a separate entity to the Council acting as Local Planning Authority.

This report concludes that:

- Marketing Boards have been present on site since 2012 and have generated very limited end user interest for Employment Uses.
- In March 2012, the Council directly sought general expressions of interest as part of a soft marketing exercise. A wide variety of proposals from developers and occupiers were received.
- In 2014-2015 and in accordance with a Cabinet resolution, the Site was marketed for a wide variety of potential land uses including employment, retail, leisure and sui generis uses such as car showrooms.
- This generated substantial interest and a large number of offers. No offers were received from any Employment occupiers either for part of the site or the whole.

- Only one offer was received to develop the whole site for Employment Use, but was not supported by named end users. This was also the lowest offer received, creating an issue for the Council in terms of its legal obligation to achieve best value. In addition, the offer was conditional on a site investigation. Ground conditions were known to be poor and the low residual value indicated by the offer limited the ability of the proposal to absorb abnormal costs whilst remaining financially viable. The developer who submitted this offer is no longer trading.
- Offers based on mixed use proposals were, for the most part, retail/leisure schemes with around 2-3 acres set aside for Employment Use.
- The option of selling the site in individual lots was not pursued beyond the first round of bids. It was initially believed that this approach might yield the highest overall value for the Site as a whole but on examination this proved not to be the case.
- A second round of bids was held in October 2014. 10 developers were shortlisted. In all instances, the offers submitted were based on a comprehensive retail/leisure scheme with no Employment Uses.

In addition to this, an Employment Land Market Report has also been submitted by the applicant, which notes that:

- NPPF discourages the retention of sites in an employment allocation if there is no reasonable prospect of it coming forward for that use
- Release of the application site would not only benefit Handforth but also Cheshire East's wider employment needs in the Borough
- Employment land review dated 2012 identifies a potential shortfall of employment land 51 hectares, however subsequent studies undertaken in 2015 and 2016 identify potential additional sites, which would provide up to 4 times the required land supply.
- Employment land take up has historically been 13.54 hectares per annum but only 3.28 hectares of this has been in the northern part of the borough, in which the site is located.
- There have been structural changes within the office market, meaning that the application site will never be brought forward for a flagship B1 office development. Out-of-town office development is now only likely to happen on the premier business parks in the area and there is an ample supply of these in the marketplace in which the site sits
- Speculative office development that has taken place on an adjacent plot to the application site which was constructed over seven years ago, has never been occupied.
- The application site is in the north of the borough where there is significantly less demand for industrial land. The industrial logistics market is concentrated in the south of the borough, a fact highlighted by both Arup and Ekosgen in their reports on Employment Land, and reflected in the employment land take-up figures
- Recent current and future demand for industrial and logistics premises is more than likely to be concentrated on the motorway corridors away from residential accommodation due to the requirements for excellent access and 24/7 usage.
- As demand increases for these prime sites there will be a resultant decrease in the take up of secondary sites, which are more suited to smaller local businesses. The application site has all the characteristics of a secondary site, in that it is in a mixed-use location near to retail and remote from the motorway network.

- Recently available existing industrial units closest to the application site have been taken up by leisure uses, including a gym and trampoline centre
- Due to the secondary nature of the site and the abnormal costs of development, the site is not a viable for continued employment use. The applicant has undertaken a viability analysis of the site for employment and their findings are that, due to the constraints of the site and the market for the location, it will never be delivered for employment use.
- The loss of this site from employment will not have a detrimental effect on the supply of existing employment land and there are still high quality office development sites in preferential locations close by. Furthermore, there are development sites which are more suited for smaller industrial and warehouse uses, with an ample supply of existing buildings to meet any demand in the area in which the application site is located.

The applicant's overall conclusion is that having regard to all of the above information, demand does not exist for this type of floorspace in this location and there is therefore no reasonable prospect of the site being used for that purpose.

The report on the marketing of the site covers a period from 2010 when the site was marketed on a short-term leasehold basis. This exercise did not lead to any short term lettings, but did generate interest from parties wishing to buy. This included interest from companies, some of them local, who were looking for employment floor space within the Borough. It is not explained why the site was marketed only on a short term leasehold basis at that time, and such a strategy may have deterred other interested parties, such as those looking for more long term commitments, pursuing their interest in the site any further. The report also states that the Council responded to the interest they did receive by considering alternative ways of delivering suitable floor space. This resulted in a paper being taken to Cabinet in November 2011. Therefore, rather than capitalising upon the interest that had been shown in 2010, the marketing appears to have stalled until March 2012, which may have led to the loss of the previous interest shown in the site.

No specific details of the 2012 marketing exercise have been provided. Therefore, whilst it is noted marketing boards were erected around the site it is not clear if these boards acknowledged the employment allocation of the land, whether the site offered a generic development opportunity or whether the site was being marketed at a price that reflected its employment status. It is however accepted that neither of the two parties who expressed interest in employment use on part of the site in 2012 pursued their interest through to a formal offer.

Limited interest during this time cannot have been entirely unexpected when the UK was gradually leaving a significant period of recession in 2008 and 2009.

A report commissioned by the Council and prepared by Deloitte apparently identified (the report has not been submitted with the application) that a development containing only offices and light industrial uses would be unviable in the current market. As a result of this, the formal marketing activity between 2014 and 2015 explicitly moved away from employment uses and the Council's cabinet approved the disposal of the site "*for a range of potential land uses, including employment, retail, leisure and sui generis use such as car showrooms*", despite the allocation in the local plan remaining as employment land.

The incorporation of these wider uses within the marketing material for a site owned by the Council may have deterred other potential employment use occupiers from expressing an interest. Would a potential occupier seeking a warehouse development make an offer when faced with competition from potential retail / leisure users who would undoubtedly make higher offers?

Consequently, only 1 out of 28 offers received from this campaign consisted entirely of employment uses. The higher offers received were based on exclusively retail / leisure schemes. As the marketing report notes the Council has a legal obligation to obtain best value from the sale. Typically, this obligation is discharged by accepting the highest price. In this case, the highest offers were for retail proposals, which would be significantly more profitable than an employment use. Whilst a further consideration is the likelihood of the sale completing, and it is relevant that all of the offers were conditional, with most being conditional on planning and site investigation, it is reasonable to conclude that in a bidding war, high profile retail uses would always prevail over employment uses. It is considered that in this case best value should also reflect the employment allocation of the site, and that the Council's wish or "obligation" to secure the highest price for the land appears to have influenced the marketing strategy for the site. This limits the weight that can be afforded to the marketing of the site.

The applicant maintains that the site is not viable for an employment use, notably due to the ground conditions, and the additional costs this incurs. A viability appraisal has been provided for small and mid-box industrial and warehouse uses, which results in a loss of just under £5.1 million rendering development for employment use unviable. The appraisal is however very high level and appears to adopt a broad brush approach to the assessment and figures included within it.

In addition the applicant's Employment Land Market Report notes that there is a relatively weak market and continued availability of significant amounts of high quality office space in the prime business parks of south Manchester, which makes the application site unattractive for potential office uses.

In terms of industrial and logistics uses, the applicant explains that there is a two-tier market. The first tier are those prime sites mainly comprising large greenfield areas close to motorway junctions and remote from retail and housing providing excellent accessibility. The second tier includes those sites catering for the local market and closer to historic industrial areas where there has been a decline in activity and some redevelopment for alternative uses, principally housing and retail or leisure. The take up of these sites is very slow and investment into many of these sites has been minimal for many years. The applicant considers that the application site sits very firmly in the second tier.

Whilst these comments are acknowledged, the applicant's marketing report does state that the site is widely acknowledged to occupy a prime location, prominent, adjacent to the A34 and next to Tesco / M&S. The site has excellent access into Manchester City Centre along the A34, the M60 is approximately 4 miles to the north of the site along the A34, and the completions of the SEMMMS link road will also improve accessibility to the airport and the M56.

It should also be noted that the employment land requirement in the emerging local plan, which was originally based upon the 2012 Employment Land Review (ELR) undertaken by Arup, has increased from the previously proposed 351ha within the submission version of the Local Plan Strategy to a gross requirement now of 378ha. This new higher figure is based on the latest (2014) Cheshire & Warrington Econometric Model (CWEM) employment projections, as opposed to the 2011 figures that the Council's 2012 ELR was based upon.

The employment evidence base collated by the Council to support the proposed quantum and distribution of land to meet employment requirements includes a report by Ekosgen called 'Alignment of Economic, Employment & Housing Strategy'. This report (July 2015) assesses levels of potential employment growth over the Local Plan period in light of the publication of updated economic projections; and the associated implications for employment land requirements, including Cheshire East's ability to capture such growth, based on the area's historic performance and the availability of employment land and associated infrastructure.

This report notes that with regard to the distribution of the additional 27ha of employment land, it is noted that the north of the Borough will continue to be attractive to businesses keen to be based in locations with easy access to Manchester City Centre. As such there is a strong case to allocate a substantial proportion of any additional land to the north of the Borough.

The proposed distribution of employment land across the Northern settlements of Cheshire East has been accordingly increased in the Proposed Changes Version of the Local Plan Strategy.

The proposed level identified for Handforth is 22ha, which includes 12ha within the proposed North Cheshire Growth Village, plus an additional 10ha. The latest iteration of the Local Plan Strategy notes that on 31 March 2013 there was a supply of 9.72ha (which includes the application site), leaving 0.28ha to be found via the site allocations process to meet the 10ha requirement. However, it should be noted that the supply also appears to include the site of the new Next store, and as such the area to be identified through the site allocations may be higher.

The Local Plan Strategy is expected to be adopted later this year, and already the Council is faced with proposals that have implications upon the amount of employment land identified to be required from the period to 2030. The loss of this site to a non-employment use would require alternative allocations to be made, which given the constraints of the northern part of the Borough is likely to require the removal of land from the Green Belt, which should not be done except in exceptional circumstances.

As noted above, the marketing strategy of the site as detailed by the Engine of the North submission (on behalf of the applicant) may have had the potential to deter potential employment occupiers, when the opportunity of retail development on the land is presented to the market, and makes the site more attractive to non-conforming users, that have much deeper pockets. The lack of interest over recent years could also be a consequence of market confidence due to the particular timing of the proposal in the years following the recession in 2008/2009. Added to this, the emerging Local Plan is seeking to set the blueprint for Cheshire East to 2030, and is therefore a long term strategy, which would be undermined by the loss of required employment land at these initial stages of the plan.

Having regard to these matters, there is not considered to be any material planning considerations to justify the loss of the application site as employment land at this time. The proposal is therefore contrary to policies E1 and E2 of the Macclesfield Borough Local Plan and policy EG3 of the emerging Cheshire East Local Plan Strategy.

### **Retail Impact**

Policy S2 of the Macclesfield Borough Local Plan deals with proposals for new retail development outside of existing centres. This policy includes that there should be a proven need for the proposal. However, the Framework supersedes this and does not require applicants to demonstrate the need for the development. The Framework does require that proposals demonstrate that they satisfy both the sequential test and the impact assessment tests. Paragraph 27 of the Framework is clear that where an application fails to satisfy the sequential test or is likely to have significant adverse impacts, it should be refused.

On this basis, the Council need to be satisfied that there are no more sequentially preferable sites available and that there would not be a significant adverse impact on investment in centres within the catchment of the proposal or on town centre vitality and viability. The Council have obtained specialist retail advice on this proposal from White Young Green (WYG), and the issues raised by them to the original scheme are briefly summarised below.

In relation to the sequential approach to development and noting recent Judgments and appeal precedent in respect of the application of the test, analysis of the Barracks Mill site on Black Lane in Macclesfield and the Water Street site in Stockport was missing from the original submissions.

Whilst it is acknowledged that the proposed restaurants and drive-thru units will act as a complimentary aspect to the wider scheme, at which shoppers are likely to visit as part of their wider trip, a separate analysis with regard to the potential impact these uses could have on the vitality and viability of the defined centres should be provided.

The applicant was therefore requested to provide further evidence to support this element of the proposal, demonstrating whether the proposed restaurants could have the potential to have a significant adverse impact on the health of the defined centres within the catchment, either individually or cumulatively with the wider development.

Following detailed discussions between the applicant, officers and the Council's retail consultant and the reductions in scale it is expected to demonstrate that there will be no significant impact upon these centres.

However, these updated details are currently the subject of a period of public consultation and final scrutiny by the Council's retail consultant so a more detailed appraisal of the retail impact will be provided as an update.

In addition, since the deferral of application 16/5678M, it is now necessary to consider the cumulative retail impact of the current proposal together with application the larger retail scheme referred to as Phase 3 (16/0138M). Further details are awaited from the applicant and the applicant for 16/5678M, and again will be reported as an update.

### **ENVIRONMENTAL SUSTAINABILITY**

## **Character and appearance**

The application site is located within an Employment Area which is characterised by buildings built more for function than form. The proposed restaurant and drive thru units adopt a similar form to the existing Next unit, and the proposed retail units on the wider site. The proposed buildings have been designed to relate to the wider retail proposal in terms of appearance, although on a smaller scale. The frontages of the restaurants are intended to relate directly to the frontages of the retail units, whereas the drive thru units have a slightly different design, tailored to individual occupiers, but use the same materials, to ensure a cohesive approach is adopted throughout the site.

The restaurants and drive-thru units sit to one side of the larger site and break up the views of the large park. The two restaurants echo the design of the retail units, although on a smaller scale. The rear elevations of these units which face onto the new access road step down the scale further and are finished in stone and brick, with a corner feature element for signage and branding. For the drive through units smaller expanses of stone, brick and glazing sit below single shallow pitched roofs. As with the larger retail proposal the design is considered to be of a relatively high standard, befitting this prominent site at the gateway to Cheshire East, and is in keeping with the local area. The proposal is therefore considered to comply with policies BE1 and DC1 of the local plan.

## **Amenity**

There are no residential properties within close proximity of the application site. As such, no significant amenity issues are raised.

## **Odour control**

Environmental Health has stated that the seven proposed restaurants / drive thrus are adjacent to A34 and are a sufficient distance from sensitive residential receptors. Cooking odours may require further assessment in order to preserve the amenity of the shopping area for adjacent business operators in which case an odour mitigation condition can be recommended. However, given the nature of the surrounding uses this is not considered to be necessary.

## **Air Quality**

Environmental Health also recommends conditions relating to the submission and implementation of a travel plan, electric vehicle infrastructure and dust control which are considered to be necessary to ensure that local air quality is not adversely affected.

## **Highways**

The Head of Strategic Infrastructure has provided the following comments on the application:

### Safe and suitable access

From the north, vehicular access will be taken via the dumbbell roundabouts beneath the A34, between the A34 / Coppice Way junction and the A555 grade-separated junction. From the south, vehicles will access via Coppice Way and Long Marl Drive. Access to the development will be via an existing five arm priority controlled roundabout junction with the A34 / Handforth Dean Retail Park.

Servicing of the Drive Thru's and restaurants will take place, through the car park, via the customer access off A34/ Handforth Dean Retail Park northern access / egress.

The development proposals also include the provision of 133 car parking spaces including 12 disabled parking spaces.

### Network Capacity

Travel demand associated with the proposed uses has been estimated based on gross floor area (GFA) using trip rates derived from the TRICS database and these rates have been agreed. These trip rates have been utilised to assess the impact of the development on the operation of junctions within the vicinity of the site along the A34 corridor.

The majority of car trips to the development are not new to the network, but rather transferred, diverted, pass-by or linked trips and this is reflected in the results of the capacity assessments indicating that all junctions will continue to operate within acceptable capacity in a future year assessment.

It is therefore considered that in operational capacity terms, the proposed development will not have a material impact on the operational performance of the local highway network.

For information a VISSIM traffic model has been engaged to assess the traffic impact for application 16/0138M which is for a large retail scheme (phase 3) which also includes the same scheme under consideration of this application (phase 2). This modelling also includes the North Cheshire Growth Village proposal (site CS30). The results from this modelling show that subject to mitigation, which would be required as a result of phase 3, the larger scheme is acceptable in traffic terms.

### Accessibility

The site is served by an hourly bus service along Earl Road (Mondays to Saturdays 0800-1800) linking the site to residential areas to the north of the site and Stockport town centre. Apart from this service the nearest are those along Wilmslow Road and Station Road in Handforth (together with the train station), about a kilometre away, which provide services to other destinations including Manchester and Wilmslow. However, pedestrian routes to these facilities are such that they may deter some people using these options during hours of darkness.

The transport assessment confirms that a travel plan will be prepared to encourage staff and customers to use of other forms of transport. However, without adequate provision for non-car modes, a travel plan will be largely ineffective.

To improve sustainable access obligations to enhance the existing bus service / infrastructure along Earl Road are contained within the 'Next' planning permission which will be payable given that this development has been implemented. In addition, it was identified as part of the Orbit proposals on the opposite side of Earl Road that contributions towards bus stops in the vicinity, improvements to provision for pedestrians and cyclists in the vicinity and a contribution towards public transport improvements were required. These measures were originally secured as part of the approved (and extant) office development on the Orbit site. In the event that all the current retail / leisure proposals are approved, careful consideration will need to be given to who is required to contribute what towards these improvements as

part of a s106 agreement, given the limited public transport options that are currently available.

In addition to pedestrian and cycle access via the main vehicular access off Handforth Dean Retail Park northern access / egress, the applicant has stated that they are proposing to provide an additional dedicated pedestrian/ cycle access off Earl Road, in the vicinity of the consented Next store and a connection to Spath Lane via the bridge under the A34. The applicant will also enhance the footway link at the southern end of Earl Road to facilitate access into the existing retail development to the south. However, further clarification is required on the specific details of this.

### Highways conclusion

The results of the traffic modelling, along with the sustainable measures discussed above, demonstrate that the proposed development is acceptable from a network operational performance and connectivity perspective subject to a condition relating to the improvement of the footpath access to the wider retail park.

This assessment has made comment on the area that falls within the jurisdiction of Cheshire East Council. The assessment of the impact of this development on areas that fall outside of the jurisdiction of Cheshire East Council will need to be made by the relevant highway authority. In terms of the impact upon the Cheshire East Highway network, for the reasons outlined above the proposal is considered to be acceptable.

Comments from Stockport MBC Highways are awaited.

### **Ecology**

The nature conservation officer has provided the following comments on the application:

#### Woodland

The woodland towards the north of the site appears upon the national inventory of priority habitats. Woodlands of this type are a material consideration for planning. In addition woodland habitats are also present in the eastern half of the application site. These woodlands support a number of characteristic floral species.

A line of more mature trees is present on the eastern boundary of the site which appear to have been associated with a former historic hedgerow, whilst the bulk of the woodland appears to have started to become established in the 1980s.

A substantial amount of the woodland habitats (0.53ha) within the site would be lost as a result of the proposed development. Macclesfield Borough Local Plan policy NE7 seeks to retain and enhance existing woodlands. The loss of the woodland from the site is therefore clearly contrary to this policy

The nature conservation officer's initial recommendation was that the scheme should be amended to allow for the retention of the existing woodland in order to avoid a loss of biodiversity as a result of the development of this site. However, as an alternative, mitigation options have been explored to compensate for the impact.

In order to inform the amount of compensatory habitat required as mitigation 'The Biodiversity Impact Assessment Calculator' has been used. This assessment calculator has been developed by Warwickshire County Council as part of the offsetting pilot project. The use of this calculator as a way to quantify the mitigation requirement was agreed with the nature conservation officer.

The nature conservation officer has confirmed that the offsetting calculation appears to be undertaken appropriately and the results of the assessment broadly reflect the nature conservation value of the woodland lost. A commuted sum £66,000 for the current application (phase 2 of the proposals) is required to mitigate for the impact.

Of course in order for the financial contribution to be of any use, a site needed to be identified that could accommodate the mitigation proposals. As woodland is being lost, albeit plantation woodland, this should be replaced with at least a proportion of new woodland planting. Woodland in the Cheshire East area is considered to be a rare habitat feature and therefore its value for biodiversity is considered to be high. 3.2ha of replacement woodland habitat is required, and as noted above, the associated costs for this to be provided off site have been calculated to be £66,000. This allows for set up costs, woodland creation and for 30 years of management and maintenance costs.

Following discussions with the Council's Countryside and Ranger Service, an area of land known as Dean Valley has been identified as an appropriate mitigation site. The valley follows a section of the River Dean, which extends from Station Road in Styal to Styal Road in Wilmslow. The Council have aspirations to improve the biodiversity value of this area, with a long term goal of developing a Country Park connecting up Styal to the Wilmslow area.

The proposals outlined above do provide appropriate mitigation for the loss of the broad leaved plantation woodland on the application site.

### Bats

The submitted ecological report identifies a number of trees with bat roosting potential. It appears likely that a number of these trees would be lost as a result of the proposed development. The applicants were asked to carry out and submit further bat surveys to assess the potential impacts of the proposed development upon roosting bats. Further surveys were carried out which confirmed that no bat roosts were present within any of the trees, and therefore there are no further implications with regard to roosting bats.

### Nesting Birds

Protected and priority ground nesting bird species have been recorded as either breeding or attempting to breed on the application site. This includes 2 pairs of Lapwing (priority species) and 1 pair of Little Ringed Plover (protected). The proposed development will result in the total loss of the suitable habitat present on the site for these species.

An updated nesting bird survey has confirmed the continued presence of nesting Little Ringed Plover so if planning consent was granted compensatory habitat for this species would also be required. It is anticipated that this would take the form of an appropriately designed green roof, and a condition requiring details of this to be submitted for approval is therefore recommended.

### Badgers

Badgers are known to occur in this broad locality, but no evidence of badgers was recorded during the submitted survey. Badgers are therefore not currently considered to present a constraint on the proposed development.

However, if planning permission is granted a condition is recommended requiring the undertaking and submission of an updated survey prior to the commencement of the development.

### **Trees and landscape**

A strip of woodland follows the eastern boundary of the site adjacent to planting that forms the embankment of the adjacent A34 bypass. Trees within the site are not protected by a Tree Preservation Order or lie within a Conservation Area. The northern woodland (part G2, G3, G4 and G5) adjacent to Spath Brook, which lies outside of this application site is identified as a priority habitat in the National Forest Inventory (NFI) – Spath Lane corridor.

It is anticipated that most (if not all) high, moderate and low category trees including woodland along the eastern boundary of the site will be directly lost to accommodate the development. The retention of optimal canopy cover is an integral part of the requirement to meet national climate change adaptation and resilience strategies and whilst some replacement planting is proposed around the site it is unlikely to be sufficient to compensate for the loss of the woodland and local canopy cover.

Macclesfield Borough Local Plan policy NE7 seeks to retain and enhance existing woodlands. The loss of the woodland from the site is therefore clearly contrary to this policy. However, as noted above in the Ecology section of this report appropriate mitigation is provided on a much larger scale in a location where the future of new woodland planting can be secured into the future.

### **Flood Risk**

The Flood Risk Manager has requested clarification on a number of points relating to drainage, which have now been provided, and further comments are awaited.

### **Contaminated land**

The Contaminated Land team has no objection to the above application subject to the following comments with regard to contaminated land:

- The application area has a history of depot and military use and therefore the land may be contaminated.
- Various reports have been submitted in support of the application. These reports make recommendations for further works to be undertaken prior to and during the development:
  - Areas of the site have potentially been used for waste disposal in the past (in particular around TP2 and evidence also in TP6-11 in the Terrafirma investigation). These areas should be remediated so as to not pose an environmental or geotechnical risk to the proposed development. Evidence of free-phase hydrocarbon contamination was encountered in TP2 around an old fridge. Due to the unknown age of this fridge, coolants used in the past such as Freon may be present in these soils – this, and the potential for further buried wastes in this area, should be discussed further. If necessary,

further investigations in this area should be undertaken to more fully understand the ground conditions and the potential risks to identified receptors.

- Site investigations and assessments have demonstrated a low potential risk to the proposed development from ground gas risks. As such, no gas protection measures are considered necessary for this site.
- A detailed methodology for dealing with asbestos impacted soils should be provided to us prior to development commencing.
- A radiation method statement has been submitted previously and comments raised on the method statement have been addressed by the radiological consultant. This method statement and the results of the subsequent comments should be adhered to during site works.

In the event of approval, appropriate conditions would be required.

### **SOCIAL SUSTAINABILITY**

#### **Open space**

Having regard to the Council's SPG on Planning Obligations the development does trigger the requirement for open space contributions in lieu of on site provision, as the development will create some demand for open space / recreation facilities. These contributions amount to £37,840 for open space and £37,840 for outdoor sport and recreation. Given the location of the site and its distance to existing facilities that would be utilised by staff and customers of the proposed development, the impact upon them unlikely to be so significant that it would require mitigation amounting to the sums identified above. For the Next scheme and the Orbit scheme in this area, the requirements were factored down to provide a more realistic figure to mitigate for the impact of the development. Discussions are ongoing with the applicant in this regard.

### **PLANNING BALANCE**

The application site is allocated as an Existing Employment Site in the Macclesfield Borough Local Plan where policies E1 and E2 seek to provide and retain a range of employment land in order to facilitate sustainable economic growth. Policy EG3 of the emerging Local Plan Strategy also seeks to protect existing employment sites for employment use, unless premises are causing nuisance or environmental problems, or the site is no longer suitable or viable for employment use.

Paragraph 22 of the Framework states that, "Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose".

Paragraph 14 states development proposals that accord with the development plan should be approved without delay, and; that where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly outweigh the benefits, when assessed against the policies in the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The aforementioned policies are considered to be consistent with the Framework, and the proposal is not in accordance with these policies. Therefore the key issue is whether there are other material considerations that would outweigh the policy presumption against this development.

There are very clear benefits arising from the proposal in that the development will bring a vacant site into active use and provide approximately 126 additional FTE jobs when operational. Added to this will be the benefits arising from construction jobs, benefits to the construction industry supply chain, potential for increased trade for local businesses, and higher levels of economic activity within Cheshire East. These factors taken together are a significant benefit of the proposal that do carry substantial weight.

It should also be acknowledged that the standard of design and materials to be adopted is above that, which is normally expected for a retail development, and the scheme would provide a development that is appropriate to its position at the northern gateway of the Borough. Moderate weight can also be afforded to this.

In terms of neutral impacts, the ecological and tree issues are considered to be appropriately mitigated. The mitigation for this also feeds into the wider aspirations of the Council to create a Country Park on the land area identified as the mitigation site. Whilst comments from Stockport MBC Highways are awaited, the impact upon Cheshire East highways has been found to be acceptable subject to appropriate improvement works. The impact upon residential amenity / noise / air quality and contaminated land is either acceptable or could be mitigated through the imposition of planning conditions.

Comments from the Flood Risk Manager are awaited, however it is not anticipated that there will be any significant drainage implications raised by this development.

The retail impact upon existing centres, both as an individual development and in terms of the cumulative impact with other developments is still to be finally concluded. Clearly, preventing the continued leakage of retail spend out of the borough is a positive benefit but the planning system exists to guide sustainable development to appropriate locations and allowing this development could act as a precedent for the loss of other allocated employment sites in other towns for retail purposes. Any recommendation will be subject to the outcome of this outstanding work which will be reported as a written update.

Weighing heavily against the benefits identified above is the loss of employment land.

The justification for policy E2 of the local plan explains that retailing is not permitted (on existing employment sites) because it would reduce the amount of employment land available and provision is made elsewhere for retailing. It is acknowledged that the proposal would generate a significant number of jobs. Although it is not considered that the merits of the proposal should be judged solely by the numbers of jobs it creates. The creation of 126 additional FTE jobs must be given weight.

Employment sites are allocated to create a range of good quality employment opportunities that will drive the future economic growth of the borough, supporting business sectors that are key to the future economic success of the borough. Employment uses are defined as the 'B

class' employment uses, namely office, light industrial, general industrial and storage and distribution uses. It is accepted that within those uses, some sites and 'B' uses will result in fewer jobs than others, but they all fit in within and integrated economy. For example, B8 uses are an employment use and do not typically generate the same number of jobs as a B1 or B2 use with a comparable floorspace. Employment allocations are important to provide land for substantial buildings (including warehouse buildings) that cannot be located elsewhere such as in town centres or countryside locations.

Our economic strategy is about providing better jobs. Handforth is close to the airport and has a synergy with other sites within the locality and wider region. We are already under pressure to provide more high quality employment sites and are having to allocate green belt sites to achieve this. The removal of a good employment site that's not in the green belt makes no sense in terms of our economic strategy.

Given the extent of Green Belt in the northern part of the Borough, the loss of the application site would exacerbate this situation and place further pressure to locate sites within the Green Belt.

The viability appraisal seeks to demonstrate that the site is not viable but this is a very high level assessment, and for this reason can only be afforded limited weight. In recent years the marketing appears to have been directed away from employment uses, to more open ended possibilities, which has led to interest from developers with retail aspirations, against which employment operators cannot compete. Employment operators are effectively priced out of the site, when the Council is "obligated" to secure the highest price for the site and best value. This is combined with the timing of the Council looking to dispose of the site in a period of economic uncertainty.

For these reasons it is not considered that it has currently been demonstrated that there is no reasonable prospect of the site being used for the allocated employment use in accordance with paragraph 22 of the Framework. Similarly, it has not been demonstrated that the site is no longer suitable or viable for employment use, there is no potential for modernisation or alternate employment uses and that no other occupiers can be found in accordance with policy EG3 of the CELPS.

Consequently, there are currently no material planning considerations that would outweigh the normal presumption against non-employment uses contained within policy E1 of the MBLP. The proposal is therefore also contrary to policy E2 of the MBLP.

### **RECOMMENDATION**

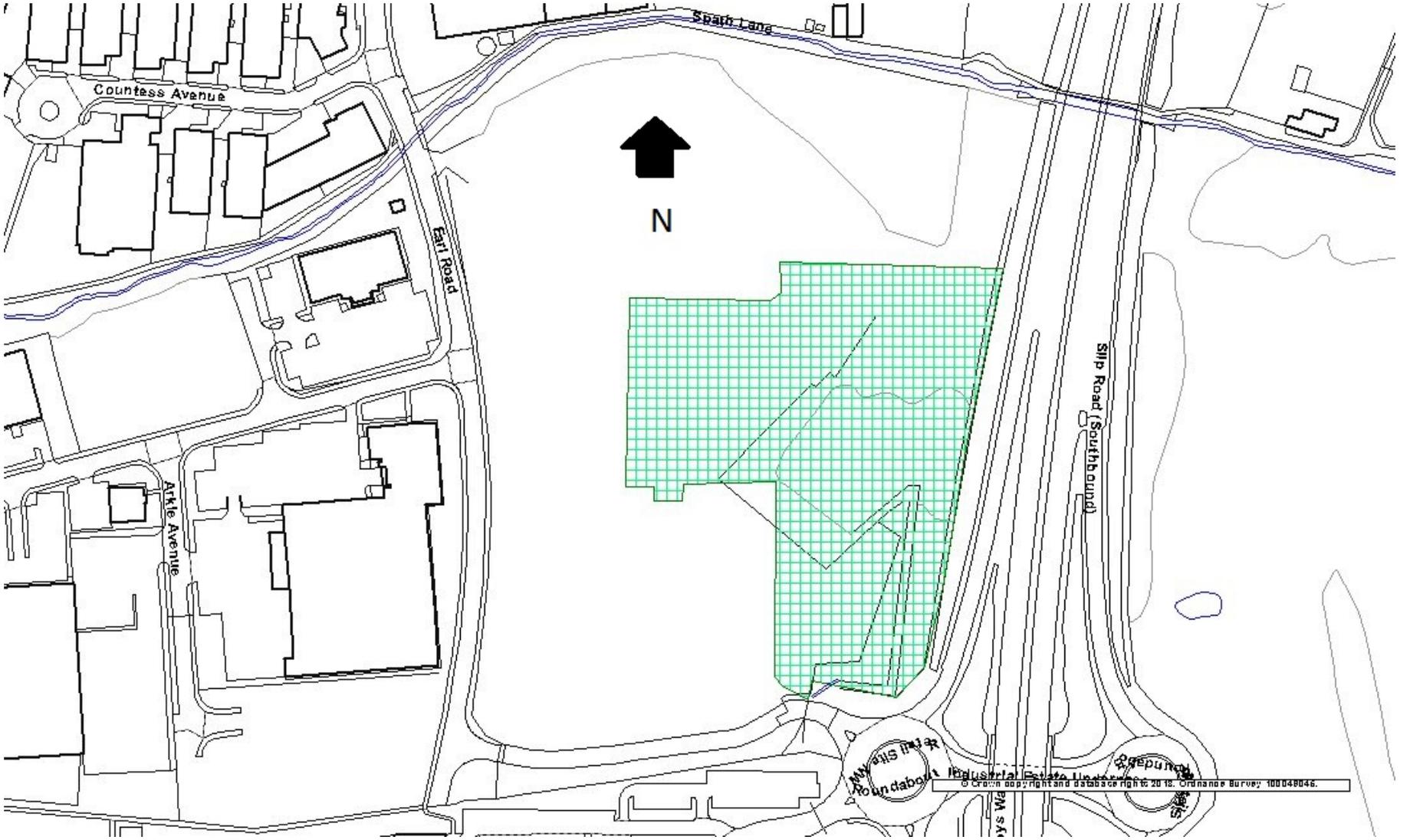
It is recommended that the application is refused for the following reason:

- 1. The proposal will lead to a loss in the amount of employment land in the Borough, at a time when the Council is allocating Green Belt sites through the local plan process to provide adequate employment land to meet the needs of the Borough t 2030. This is considered to significantly and demonstrably outweigh the benefits of the proposal. It has therefore not been satisfactorily demonstrated that there is no reasonable prospect of the site being used for**

**employment purposes, as required by paragraph 22 of the NPPF and policy EG3 of the emerging Cheshire East Local Plan Strategy. The proposed development is therefore contrary to policies E1 and E2 of the Macclesfield Borough Local Plan, policy EG3 of the Proposed Changes Version of the emerging Cheshire East Local Plan Strategy and paragraph 22 of the Framework**

*In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning (Regulation) has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.*

Should this application be the subject of an appeal, the Head of Planning Regulation will be seeking delegated authority to enter into a S106/S111 agreement. Given that comments from Stockport MBC are awaited and it is likely that there will be an impact upon their highway network, the full list of Heads of Terms, and assessment against the CIL Regulations, will be reported as an update.



Application No: 16/3284M  
Location: LAND AT, EARL ROAD, HANDFORTH  
Proposal: Erection of retail floorspace  
Applicant: Martin Ridgway, CPG Development Projects Ltd  
Expiry Date: 01-Mar-2017

### **SUMMARY**

The application site is allocated as an Existing Employment Site in the Macclesfield Borough Local Plan where policies E1 and E2 seek to provide and retain a range of employment land in order to facilitate sustainable economic growth. However the majority of the site is already used for retail purposes, which is considered to be a significant material consideration that outweighs the normal policy presumption against retail use in Existing Employment Areas. Therefore the principle of the development is largely accepted. A query remains regarding the use of employment land that is not currently in retail use to provide a turning area for service vehicles serving the new units. Further details have been requested from the applicant and these will be reported as an update.

The benefits in this case are the provision of approximately 40 jobs when operational, and the benefits arising from construction jobs, benefits to the construction industry supply chain, potential for increased trade for local businesses, and higher levels of economic activity within Cheshire East, all of which carry moderate weight given the scale of the development. It should also be acknowledged that the standard of design and materials to be adopted is above that, which is normally expected for a retail development, and the scheme would provide a development that is appropriate to its position at the northern gateway of the Borough. Moderate weight can again be afforded to this.

The development would have a neutral impact upon drainage, ecology, residential amenity, noise, air quality subject to any appropriate conditions. The highways impact would also be broadly neutral due to the scale of the development having regard to the existing use, relationship with neighbouring sites and appropriate mitigation. Similarly the retail impact on existing centres is also considered to be acceptable, and neutral in the planning balance.

The adverse impacts of the development would be the loss of additional employment land, which is not currently used for employment purposes. Subject to the satisfactory outcome of this matter, there are no adverse impacts associated with the proposal that would significantly and demonstrably outweigh the benefits.

Accordingly the application is recommended for approval subject to the satisfactory resolution of the outstanding matters.

### **SUMMARY RECOMMENDATION**

**Approve subject to conditions**

The Secretary of State has received a request to intervene; therefore any resolution will be subject to the outcome of this process.

**PROPOSAL**

The application seeks outline planning permission, with all matters reserved except for access, for the erection of retail floorspace as an extension to the recently constructed Next store. The proposal includes the demolition of the existing conservatory and garden centre. Two independent retail units will be created within the proposed extension.

The application has been amended and reduced in scale since the original submission in July 2016.

It should be noted there are two other applications on the 'wider site' which are referred to as Phase 2 and 3 (applications 16/0138M and 16/0802M). This particular application is referred to as Phase 1B.

**SITE DESCRIPTION**

The application site comprises the existing garden centre and conservatory of the recently constructed Next retail store. The site is located within an Existing Employment Area as identified in the Macclesfield Borough Local Plan.

**RELEVANT HISTORY**

There have been a number of applications for mixed use developments on the site since 1995, which have included proposals for cinema, leisure and retail development. All of which were refused.

The most relevant of these are:

12/4652M - Erection of Class A1 retail store with conservatory, garden centre, ancillary coffee shop and associated car parking – Approved 23.10.2014

04/1091P - Renewal of planning permission 01/2683P for use of land for car parking from 01/04/05 to 31/03/10 – Approved 17.06.2004

83294P – Erection of retail warehousing – Refused 04.04.1996, Appeal dismissed 23.11.1998

On the wider site

16/0138M - Construction of 23,076sqm of class A1 retail floorspace and 2,274sqm of class A3/A5 floorspace along with associated car parking, access and servicing arrangements and landscaping – not yet determined (Phase 2 & 3)

16/0802M - Erection of four restaurants and three drive-thru restaurant/cafe's along with associated car parking, servicing and landscaping – not yet determined (Phase 2)

## On the adjacent site off Epsom Avenue

16/5678M - Demolition of existing buildings and erection of five units to be used for Class A1 (Non-food retail) purposes and two units to be used for Use Class A1 (Non-food retail or sandwich shop) and/or Use Class A3 and/or Use Class A5. Creation of car park and provision of new access from Earl Road, together with landscaping and associated works. (Resubmission 15/0400M) – not yet determined

15/0400M - Demolition of existing buildings and erection of five units to be used for Class A1 (Non-food retail) purposes and two units to be used for Use Class A1 (Non-food retail or sandwich shop) and/or Use Class A3 and/or Use Class A5. Creation of car park and provision of new access from Earl Road, together with landscaping and associated works – Refused (loss of employment land) 08.03.2016 – Appeal scheduled for June 2017

## **NATIONAL & LOCAL POLICY**

### **National Policy**

The National Planning Policy Framework (the Framework) establishes a presumption in favour of sustainable development. The Framework sets out that there are three dimensions to sustainable development: economic, social and environmental. These roles should not be undertaken in isolation, because they are mutually dependent.

Of particular relevance are paragraphs:

22 (long term protection of employment sites)

24, 26 and 27 (town centres)

### **Local Plan Policy**

Macclesfield Borough Local Plan -

NE9 (River corridors)

NE11 (Nature conservation interests)

BE1 (Design principles for new developments)

E1 (Employment land)

E3 (Employment land – business)

E4 (Employment land – industry)

T3 (Improving conditions for pedestrians)

T5 (Provision for cyclists)

IMP1 (Provision for infrastructure)

IMP2 (Need for transport measures)

DC1 (High quality design for new build)

DC2 (Design quality for extensions and alterations)

DC3 (Protection of the amenities of nearby residential properties)

DC5 (Natural surveillance)

DC6 (Safe and convenient access for vehicles, special needs groups and pedestrians)

DC8 (Requirements to provide and maintain landscape schemes for new development)

DC9 (Tree protection)

### **Other Material Considerations**

## National Planning Practice Guidance

Cheshire East Local Plan Strategy – Proposed Changes Version (CELPS)

The following are considered relevant material considerations as indications of the emerging strategy:

SD1 Sustainable Development in Cheshire East

SD2 Sustainable Development Principles

EG3 Existing and Allocated Employment Sites

EG5 Promoting a Town Centre First Approach to Retail and Commerce

## CONSULTATIONS

**Flood Risk Manager** – No objections subject to conditions relating to drainage

**United Utilities** – No objections subject to conditions relating to drainage

**Manchester Airport** – No objections subject to informative relating to cranes

**Head of Strategic Infrastructure** – No objections subject to conditions

**Stockport MBC** – Object on the following grounds:

- Inconsistent floorspace figures quoted within the application
- Sequentially preferable sites in Stockport
- No evidence to suggest the catchment takes account of SEMMMS
- Not demonstrated the need they seek to serve, therefore not possible to determine whether appropriate degree of flexibility has been applied
- Impact assessment does not sufficiently address the impact of the development on investment in Stockport Town and its vitality and viability
- Health assessment of Stockport should be updated
- Conflict with town centre first approach in Cheshire East Local Plan
- Sequential assessment should consider whether each Phase of the development could separately be accommodated at sequentially preferable sites.
- Cumulative retail impact of Phases 1b, 2 and 3 would have a significantly adverse impact on the vitality and viability of Stockport Town Centre and investment within it
- Catchment not combined with catchment for phases 2 and 3, which is a flawed approach
- Too early to conclude garden centre element is not successful
- Insufficient justification for the scale and format of the proposal has been provided.
- Different Catchment Areas have been used for the sequential test and the Retail Impact Assessment without an associated justification or explanation, which deviates from the NPPG.
- Sales density for Phase 1b should potentially be higher because WYG indicate the tenants targeted for the development as a whole include clothing and footwear retailers
- Cumulative impact will have significant adverse impact upon vitality and viability of Stockport Town Centre and upon investment within it.

**Handforth Parish Council** – No objections

## REPRESENTATIONS

3 letters of representation have been received objecting to the proposal on the following grounds:

- Contrary to development plan.
- Compelling need for the careful, co-ordinated and fully informed assessment of all out of centre retail applications to ensure town centres remain the focus for retail development.
- Inadequate parking provision
- Inadequate servicing / manoeuvring provision
- Insufficient justification for loss of garden centre has been provided
- Setting out the need that a development seeks to serve and justification for its format are a key component of the sequential test to site selection
- Inconsistency in floorspace figures quoted for existing garden centre
- No mention of any local planning policies relating to retail/town centre uses
- No justification for the catchment area nor an explanation about how it has been formed.
- Applicant has used the Next Catchment Area for the Sequential Test they have used the Phase 3 Catchment Area for the Impact Assessment – should be the same
- Methodology for setting the Catchment Area and Study Period does not follow best practice guidance as set out by NPPG
- Stated uplift in turnover may be greater due to inconsistencies in floorspace, therefore impact may be greater
- No explanation is provided about why they have used the sales density that they have
- No correlating map to show zones and associated trade draw assumptions
- Trade draw figures do not add up to total turnover of the proposed development
- Applicant has incorrectly treated Peel Centre as a separate entity to Stockport Town Centre
- Solus impact of the proposed development shows monetary diversion of £34.4m at 2019 and £35.9m at 2021 – more than double the turnover of the proposed development. This cannot be correct and calls into question the robustness of the assessment.
- No assessment of impact on planned or committed development as required by NPPF

## APPLICANTS SUBMISSION

The following documents accompany the planning application, and can be viewed in full on the application file:

- Planning and retail statement
- Transport Assessment
- Design & Access Statement
- Retail responses to comments from WYG and Stockport MBC

The retail responses outline the following points:

- Floorspace will come forward even if wider scheme is not delivered due to existing concentration of retail floorspace
- Assessment of the sequential test should only be made in respect of the development applied for

- Barracks Mill and Water Street serve different catchment areas
- Neither site is sequentially preferable, and neither is suitable
- Application seeks the demolition of 646 sq.m. of existing retail floorspace
- References throughout the objection by Stockport Council to phases 2 and 3 are not relevant to the determination of this application
- WYG advised that a 20% increase or decrease in site area should be applied when considering whether an alternative site may be suitable. Therefore, the assessment considered sites between 0.44ha and 0.66ha.
- There is no requirement to disaggregate one of the proposed units. Redrock is therefore unsuitable.
- Former BHS unit cannot realistically be subdivided and does not appear to be actively marketed
- Royal Mail Sorting Office is no longer available
- Unit 6 at the Peel Centre is still occupied and is therefore unavailable
- Mersey Street requires significant remediation and is not currently available. Site is also too large for proposed development.
- Knightsbridge is neither available for redevelopment nor is it likely to be viable for redevelopment of the scale proposed given previous failed attempts
- Former Peter Carlson Retail Showroom is too small to accommodate the proposed development
- The proposed floorspace falls well below the 2,500sqm. threshold for impact assessments set out at Paragraph 26 of the NPPF
- Cumulative impact of this proposal along with the rest of the retail floorspace proposed as part of the wider development scheme is considered in the assessment submitted in respect of that scheme

### **APPRAISAL**

The key issues in the determination of this application are:

- Use of employment land
- Retail impact
- Highways safety and traffic generation

### **ECONOMIC SUSTAINABILITY**

#### **Employment Land**

The application site is located within an Existing Employment Area as identified in the Macclesfield Borough Local Plan. However, the majority of the site is already occupied by an approved retail use; the exception being an area of 190sqm at the north-west corner of the application site. This area is currently vacant and remains vacant as part of the proposed development. The applicant has advised that the area is to provide a turning area in the event the development of the wider site does not come forward.

Employment Areas are defined in the glossary to the Macclesfield Borough Local Plan as:

*The existing and proposed areas which are intended to cater for a mix of employment development including general industry, business uses and storage and distribution (see elsewhere in Glossary for more detailed definitions of these classes of employment*

*development). The primary purpose of an employment area remains employment. For the avoidance of doubt, retailing is excluded from the definition of employment.*

Policy E1 of the Macclesfield Borough local plan states that “Both existing and proposed employment areas will normally be retained for employment purposes” and policy E2 states that “On existing and proposed employment land, proposals for retail development will not be permitted”. It is therefore clear that the proposal is contrary to policies in the adopted development plan.

Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The Framework is a significant material consideration and includes a presumption in favour of sustainable development. Paragraph 14 states development proposals that accord with the development plan should be approved without delay, and; that where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly outweigh the benefits, when assessed against the policies in the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

Policies E1 and E2 of the Macclesfield Borough Local Plan are considered to be consistent with the Framework to the extent that they seek to provide and retain a range of employment land in order to facilitate sustainable economic growth. However, paragraph 22 of the Framework states that, “Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose”. Policy E1 does state that “both existing and proposed employment areas will normally be retained for employment purposes”. Use of the word “normally” does suggest that there may be occasions when employment land could be used for alternative purposes, as with paragraph 22.

In the Cheshire East Local Plan Strategy, Employment Land is defined as:

*Land identified for business, general industrial, and storage and distribution development as defined by Classes B1, B2 and B8 of the Employment Land Town and Country Planning (Use Classes) Order 1987. It does not include land for retail development nor 'owner specific' land.*

Policy EG3 of the emerging local plan strategy also seeks to protect existing employment sites for employment use, unless there are environmental problems that cannot be mitigated or the site is no longer suitable or viable for employment use. For it to be no longer suitable or viable, there should be no potential for modernisation or alternate employment uses, and no other occupiers can be found. The footnote to this policy states to demonstrate that no other occupiers can be found, the site should be marketed at a realistic price reflecting its employment status for a period of not less than 2 years. The emerging local plan is at an advanced stage and therefore this policy can be afforded significant weight.

Whilst the retail use of the majority of the site can be accepted given that it already is in retail use, and the use of the same area previously proposed would not have any greater impact upon the current employment land allocations and supply than the existing development, the use of any new employment land needs to be carefully considered.

The additional area is required to provide a turning area for the new units, and it is accepted that the area of employment land lost to the proposed development is relatively small scale.

However, further details are considered to be required to justify the use of this area of employment land for a purpose associated with the retail use of the site. Further details have been requested from the applicant and will be reported as an update.

Subject to the satisfactory resolution of this matter the use of the site for retail purposes can be accepted.

### **Retail Impact**

#### THE SEQUENTIAL APPROACH

Paragraph 24 of the Framework requires:

*“applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered... Applicants and planning authorities should demonstrate flexibility on issues such as format and scale.”*

The site is allocated as an Existing Employment Area under policies E1, E2 and E3 of the MBLP. The site sits to the north of Handforth Dean Shopping Centre which is not a designated retail shopping area.

Wilmslow and Handforth are the nearest centres to the site, which are identified as Key Service Centres in the emerging CELPS, which are approximately 2.5km and 1km from the site respectively. Therefore, the site is located in an out of centre location. Policy EG5 of the CELPS promotes a town centre first approach to retail and commerce, and reflects the sequential and impact tests of the Framework.

The Framework states that the application of the sequential test should be proportionate and appropriate for the given proposal. The test also requires a demonstration of flexibility for the proposed development. If no town centre sites are found, preference should be given to accessible sites in an edge of centre or out of centre location that are well connected to the town centre. Only if there are no suitable sequentially preferable locations, the sequential test is passed. The NPPG also mentions that robust justification must be provided to show if certain main town centre uses have particular market and locational requirements that may only be accommodated in specific locations.

The applicant has referred to a number of appeal cases and judgements to give an appropriate and informed context to the sequential test. These cases together with the Framework identify two important points. Firstly, the Secretary of State does not consider disaggregation to form any part of the sequential test and, as a consequence, there is no requirement to consider whether any element of the application proposal could be disaggregated to another site. Secondly that in order for an alternative site to be found to be sequentially preferable, there needs to be a realistic prospect that the site could support such a use in the ‘real world’. In other words, the refusal of planning permission at the subject application site should bring with it a realistic prospect that a materially similar development (allowing for some flexibility) could be accommodated at the alternative site.

The applicant has undertaken a site search for sites of approximately 0.55ha and includes an analysis of six sites from within their adopted primary catchment area. It is accepted that

none of the sites identified by the applicant are available and suitable to accommodate the proposed development, either in part or in full. The applicant was subsequently asked to consider sites at Barracks Mill on Black Lane in Macclesfield and at Water Street in Stockport. Again neither of these sites is considered to be available and suitable to accommodate the proposed development. The applicant has also considered the sites raised by Stockport and none were found to be suitable.

The proposal is therefore considered to satisfy the sequential test.

### TOWN CENTRE IMPACT

Paragraph 26 of the Framework states that local authorities should require an impact assessment to be submitted in support of planning applications for main town centre uses over 2,500sqm on sites outside of town centres that are not in accordance with an up to date development plan. The impact assessment should include a assessment of:

- The impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made.

Whilst the application proposes a main town centre use outside of a centre and is not in accordance with the development plan, the floorspace proposed is below the 2,500sqm threshold (within the Framework and the CELPS) for an impact assessment to be carried out. An impact assessment is not therefore necessary for this application as a stand alone proposal.

However as the proposed floorspace will be part of a larger retail development which is currently being considered by the Council, an assessment of impact has been undertaken by the applicant to understand the effect of this additional retail floorspace on the impact on trade and turnover.

The impact assessment has been reviewed by the Council's retail consultant and no significant impact upon existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal has been identified. Similarly, no significant impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made has been identified.

However, as noted within other application reports on this agenda it is necessary to now necessary to consider the cumulative retail impact of the current proposal together with the other applications on the agenda: 16/5678M, 16/0138M and 16/0802M. Further details are awaited from the applicant and the applicant for 16/5678M, so this will be reported as an update.

### **ENVIRONMENTAL SUSTAINABILITY**

#### **Character and appearance**

The application site is located within an Employment Area which is characterised by buildings built more for function than form. The proposed retail units adopt a similar form to the existing Next unit with a stone finish with substantial glazed elements and aluminium louvres to the upper sections of the front elevations. The design is considered to be of a relatively high standard for a retail development, befitting this prominent site at the gateway to Cheshire East, and is in keeping with the local area. The proposal is therefore considered to comply with policies BE1 and DC1 of the local plan.

### **Amenity**

There are no residential properties within close proximity of the application site. As such, no significant residential amenity issues are raised.

Similarly, due to the scale of the development no significant noise or air quality issues are raised.

The proposal therefore complies with policy DC3 of the Local Plan.

### **Highways**

The Head of Strategic Infrastructure has provided the following comments on the application:

#### Safe and suitable access

The current vehicular access arrangements serving the consented site will serve this proposal.

#### Network Capacity

While the development is not ancillary to the adjacent retail unit (Next) it is envisaged that travel patterns will be closely linked and the quantity of new vehicular trips attracted to the surrounding network will be low and within the daily fluctuation of existing traffic flows. The majority of vehicular trips attracted to the development will be currently passing by the development or already entering the site by means of a linked trip.

#### Car Parking

There will be a small reduction in the number of on site car parking spaces even though the net total floor area to be served is increasing by 1,443sqm. Accordingly this results in parking provision below the Cheshire East Council car parking standards. However the applicant has undertaken to upgrade foot links to the retail development immediately to the south of the development proposal hence encouraging the undertaking of linked trips resulting in the potential for reduced demand for on-site parking. In addition monies have been secured from the previous application to enhance public transport provision to and from the site; accordingly the proposed level of car parking is considered to be acceptable.

#### Accessibility

The site is served by an hourly bus service along Earl Road (Mondays to Saturdays 0800-1800) linking the site to residential areas to the north of the site and Stockport town centre. Apart from this service the nearest are those along Wilmslow Road and Station Road in Handforth (together with the train station), about a kilometre away, which provide services to other destinations including Manchester and Wilmslow. However, pedestrian routes to these facilities are such that they may deter some people using these options during hours of darkness.

To improve sustainable access obligations to enhance the existing bus service / infrastructure along Earl Road are contained within the 'Next' planning permission which will be payable given that this development has been implemented.

### Highways conclusion

Having regard to the quantum of retail floor space proposed and the low level of transport implications arising, the proposal raises no significant highways or transport concerns.

No comments from Stockport MBC Highways have been received.

### **Ecology and trees**

No significant ecological or tree issues are anticipated from the proposed development. The nature conservation officer has raised no objections.

### **Flood Risk**

The Flood Risk manager had reviewed the proposals and confirms that there are no objections on flood risk grounds.

## **SOCIAL SUSTAINABILITY**

Having regard to the Council's SPG on Planning Obligations the development does trigger the requirement for open space contributions in lieu of on site provision, as the development will create some demand for open space / recreation facilities. These contributions amount to £31,335 for open space and £31,335 for outdoor sport and recreation. Given the location of the site and its distance to existing facilities that would be utilised by staff and customers of the proposed development, the impact upon them is unlikely to be so significant that it would require mitigation amounting to the sums identified above. For the Next scheme and the Orbit scheme in this area, the requirements were factored down to provide a more realistic figure to mitigate for the impact of the development. Discussions are ongoing with the applicant in this regard and an update will be provided.

## **PLANNING BALANCE**

The application site is allocated as an Existing Employment Site in the Macclesfield Borough Local Plan where policies E1 and E2 seek to provide and retain a range of employment land in order to facilitate sustainable economic growth. However the majority of the site is already used for retail purposes, which is considered to be a significant material consideration that outweighs the normal policy presumption against retail use in Existing Employment Areas. Therefore the principle of the development is largely accepted. A query remains regarding the use of employment land that is not currently in retail use to provide a turning area for service vehicles serving the new units. Further details have been requested from the applicant and these will be reported as an update.

The benefits in this case are the provision of approximately 40 jobs when operational, and the benefits arising from construction jobs, benefits to the construction industry supply chain, potential for increased trade for local businesses, and higher levels of economic activity within Cheshire East, all of which carry moderate weight given the scale of the development. It should also be acknowledged that the standard of design and materials to be adopted is

above that, which is normally expected for a retail development, and the scheme would provide a development that is appropriate to its position at the northern gateway of the Borough. Moderate weight can again be afforded to this.

The development would have a neutral impact upon drainage, ecology, residential amenity, noise, air quality subject to any appropriate conditions. The highways impact would also be broadly neutral due to the scale of the development having regard to the existing use, relationship with neighbouring sites and appropriate mitigation. Similarly the retail impact on existing centres is also considered to be acceptable, and neutral in the planning balance.

The adverse impacts of the development would be the loss of additional employment land, which is not currently used for employment purposes. Subject to the satisfactory outcome of this matter, there are no adverse impacts associated with the proposal that would significantly and demonstrably outweigh the benefits.

Accordingly the application is recommended for approval subject to the satisfactory resolution of the outstanding matters.

The Secretary of State has received a request to intervene with this application; therefore, any resolution will be subject to the outcome of this process.

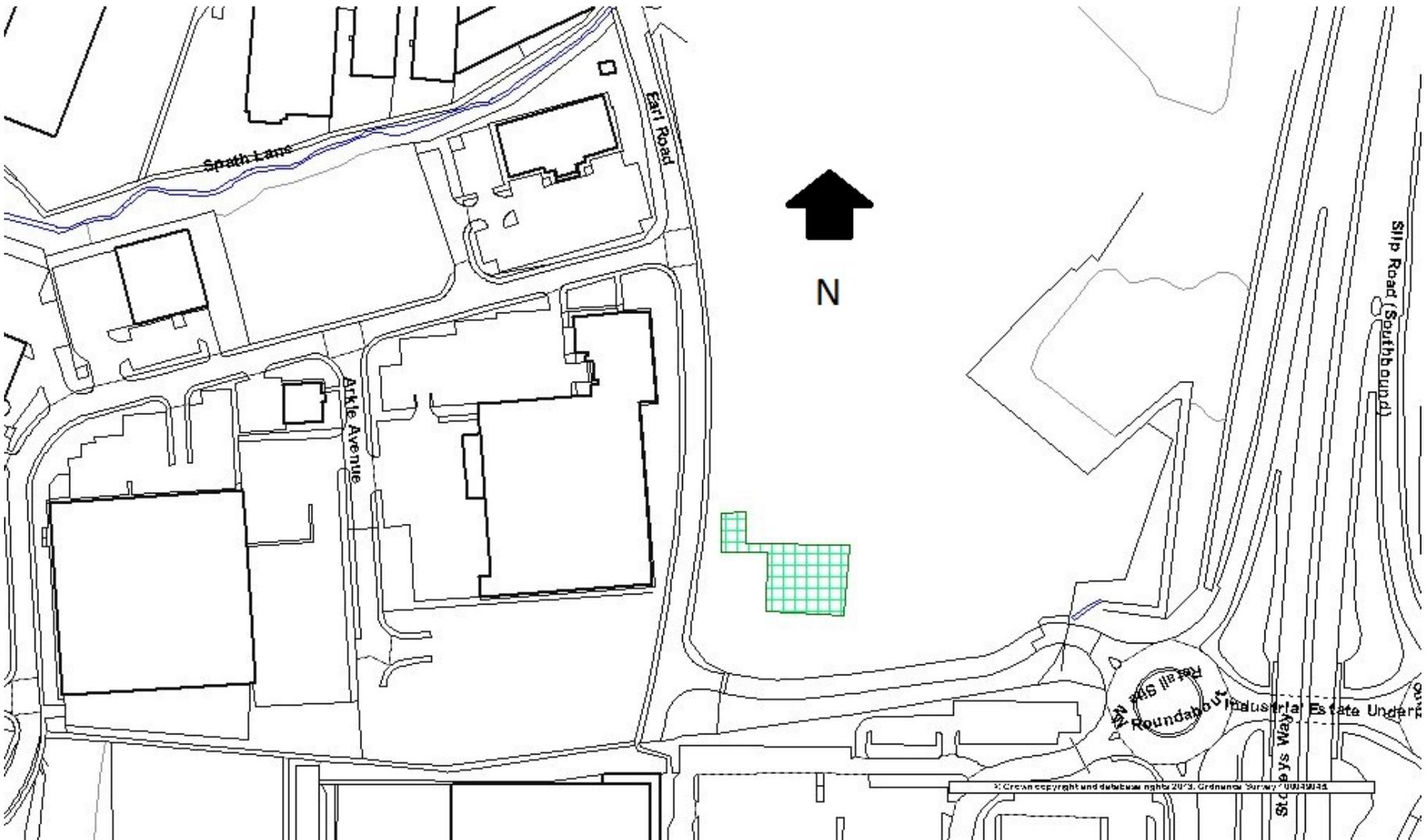
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*In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning (Regulation) delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.*

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RECOMMENDATION: Approve subject to following conditions

1. A01OP - Submission of reserved matters
2. A03OP - Time limit for submission of reserved matters
3. A06OP - Commencement of development
4. A01AP - Development in accord with approved plans
5. A06EX - Materials as application
6. No subdivision of retail units
7. Footway link improvements to south to be submitted
8. Sustainable drainage management and maintenance plan to be submitted
9. Scheme for the management of overland flow to be submitted



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Application No: 16/5678M

Location: Land At Junction Of Earl Road And, EPSOM AVENUE, HANDFORTH

Proposal: Demolition of existing buildings and erection of five units to be used for Class A1 (Non-food retail) purposes and two units to be used for Use Class A1 (Non-food retail or sandwich shop) and/or Use Class A3 and/or Use Class A5. Creation of car park and provision of new access from Earl Road, together with landscaping and associated works. (Resubmission 15/0400M).

Applicant: Orbit Investments (Properties) Ltd

Expiry Date: 17-Feb-2017

## DEFERRAL

The application was deferred from the SPB meeting on 22 March for the following reason:

*In order to allow the application to be considered by the Strategic Planning Board at the same time as other live applications for retail development in the local area.*

The other live applications are now on this same agenda. These applications are:

- 16/0138M Construction of 23,076sqm of class A1 retail floorspace and 2,274sqm of class A3/A5 floorspace along with associated car parking, access and servicing arrangements and landscaping
- 16/0802M Erection of four restaurants and three drive-thru restaurant/cafe's along with associated car parking, servicing and landscaping
- 16/3284M Erection of retail floorspace

The retail impact of this development on its own has previously been found to be acceptable for the reasons stated in the original report below. However given that the applications are all being considered together, it is now necessary to consider the cumulative retail impact of the current proposal together with these other applications listed above. Further details are awaited from the applicant and an appraisal of these details will be reported as an update.

The proposal will create up to 291 jobs when operational, and it was clear that Members were willing to weigh this in the balance when debating this application. This is a very clear and quantifiable employment benefit of the proposal. Added to this will be the benefits arising from construction jobs, benefits to the construction industry supply chain, potential for increased trade for local businesses, and higher levels of economic activity within Cheshire East. These factors taken together are a significant benefit of the proposal that does carry substantial weight.

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However, weighing heavily against the benefits identified above is the loss of employment land at a time when the Council is allocating Green Belt sites through the Local Plan process to provide adequate employment land to meet the needs of the Borough to 2030. It is not considered that it has currently been demonstrated that there is no reasonable prospect of the site being used for the allocated employment use in accordance with paragraph 22 of the Framework. Similarly, it has not been demonstrated that the site is no longer suitable or viable for employment use, there is no potential for modernisation or alternate employment uses and that no other occupiers can be found in accordance with policy EG3 of the CELPS.

Accordingly the application is recommended for refusal.

**ORIGINAL REPORT FROM SPB ON 22 MARCH 2017 (updated to include update report prepared on 20 March)**

**SUMMARY**

The justification for policy E2 of the local plan explains that retailing is not permitted (on existing employment sites) because it would reduce the amount of employment land available and provision is made elsewhere for retailing. It is acknowledged that the proposal would generate a significant number of jobs; however it is not considered that the merits of the proposal should be judged by the numbers of jobs it creates. B8 uses are an employment use and do not typically generate the same number of jobs as a B1 or B2 use with a comparable floorspace. Employment allocations are important to provide land for substantial buildings (including warehouse buildings) that cannot be located elsewhere such as in town centres or countryside locations. The proposal will result in the loss of employment land at a time when the Council is actively allocating additional employment land as part of its emerging local plan. The need for sites is such that even Green Belt locations are currently being identified for future employment purposes in the north of the Borough. The loss of the application site would exacerbate this situation and place further pressure to locate sites within the Green Belt.

The proposal is therefore contrary to policies E1 and E2 of the Macclesfield Borough Local Plan, and the caveat within paragraph 22 of the Framework which seeks to avoid the long term protection of employment sites where there is not reasonable prospect of it being used for employment purposes does not apply. The existing warehouse building on the application site is occupied and therefore it cannot be concluded that there is no reasonable prospect of the site being used for employment purposes.

Whilst additional information has been submitted by the applicant relating to the warehouse and office market in south Manchester and the marketing that has taken place on a neighbouring office building since 2007, the existing building is currently in active use, which demonstrates that there is a need for it at this time. Therefore, the loss of employment land is considered to significantly and demonstrably outweigh the benefits of the proposal. Accordingly the application is recommended for refusal.

**SUMMARY RECOMMENDATION**

Refuse

## **PROPOSAL**

The application seeks full planning permission for the demolition of existing warehouse building and erection of five units to be used for Class A1 (Non-food retail) purposes and two units to be used for Use Class A1 (Non-food retail or sandwich shop) and/or Use Class A3 and/or Use Class A5. It also includes the creation of car parking and provision of new access from Earl Road, together with landscaping and associated works. The existing office building in the north east corner of the site will be retained.

The application is a resubmission of application 15/0400M which was refused in March 2016 due to the loss of employment land and now the subject of an appeal in June this year.

## **SITE DESCRIPTION**

The application site comprises existing warehouse and office buildings on the corner of Earl Road and Epsom Avenue. The site is located within an Existing Employment Area as identified in the Macclesfield Borough Local Plan.

## **RELEVANT HISTORY**

15/0400M - Demolition of existing buildings and erection of five units to be used for Class A1 (Non-food retail) purposes and two units to be used for Use Class A1 (Non-food retail or sandwich shop) and/or Use Class A3 and/or Use Class A5. Creation of car park and provision of new access from Earl Road, together with landscaping and associated works – Refused 08.03.16

13/3041M – Extension to time limit of 03/2155P – Approved 08.06.2016

03/2155P - erection of 2no. Three/ four storey office blocks – Approved 04.08.2008

## **NATIONAL & LOCAL POLICY**

### **National Policy**

The National Planning Policy Framework (the Framework) establishes a presumption in favour of sustainable development. The Framework sets out that there are three dimensions to sustainable development: economic, social and environmental. These roles should not be undertaken in isolation, because they are mutually dependent.

Of particular relevance are paragraphs:

22 (long term protection of employment sites)

24, 26 and 27 (town centres)

### **Local Plan Policy**

Macclesfield Borough Local Plan -

NE9 (River corridors)  
NE11 (Nature conservation interests)  
BE1 (Design principles for new developments)  
E1 (Employment land)  
E3 (Employment land – business)  
E4 (Employment land – industry)  
T3 (Improving conditions for pedestrians)  
T5 (Provision for cyclists)  
IMP1 (Provision for infrastructure)  
IMP2 (Need for transport measures)  
DC1 (High quality design for new build)  
DC2 (Design quality for extensions and alterations)  
DC3 (Protection of the amenities of nearby residential properties)  
DC5 (Natural surveillance)  
DC6 (Safe and convenient access for vehicles, special needs groups and pedestrians)  
DC8 (Requirements to provide and maintain landscape schemes for new development)  
DC9 (Tree protection)

### **Other Material Considerations**

National Planning Practice Guidance

Cheshire East Local Plan Strategy – Proposed Changes Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

SD1 Sustainable Development in Cheshire East

SD2 Sustainable Development Principles

EG3 Existing and Allocated Employment Sites

EG5 Promoting a Town Centre First Approach to Retail and Commerce

### **CONSULTATIONS**

**United Utilities** – No objections subject to conditions relating to drainage

**Environmental Health** – No objections subject to conditions relating to pile driving, floor floating, dust control, travel planning, electric vehicle infrastructure and contaminated land.

**Head of Strategic Infrastructure** – No objections subject to financial contribution to improve accessibility of the site.

**Flood Risk Manager** – No objections subject to conditions

**Public Rights of Way** – No objection subject to advice note on developer's obligations regarding public right of way.

**Stockport MBC** – Comments awaited

**Handforth Parish Council** – No objection

### **REPRESENTATIONS**

A letter of representation has been received on behalf of Peel Holdings noting that Peel's previous objections are still relevant:

- Applicant has not explained how it has been flexible in approach to sequential test.
- No assessment of Unit 6 The Peel Centre or the gas holders site to the rear of the Peel Centre. No justification for the size of site the applicant claims to require.
- Catchment area takes no account of SEMMMS link road which will bring material changes to the extent of the catchment.
- No health check has been undertaken from the designated centres in the catchment.
- Level of trade draw from Stockport has been underestimated and the amount of trade draw from centres that are further away has been overstated.
- If more trade is drawn from Stockport Town Centre, particularly The Peel Centre, the impact level will be higher than that shown and would harm the vitality and viability of the Town Centre.
- No consideration of whether or not the proposed development will impact upon committed or planned investment at the Peel Centre or elsewhere in the Town Centre.
- List of existing commitments is incomplete – 5110sqm of retail floorspace in Heaton Mersey has been missed.
- Predicted cumulative impact is therefore understated.
- No justification for the sales density rate used in applicant's retail assessment.

### **APPLICANTS SUBMISSION**

The following documents accompany the planning application and can be viewed in full on the application file:

- Planning & Retail Statement
- Design & Access Statement
- GCN Appraisal
- Bat Roost Potential Appraisal
- Energy Assessment
- Tree Survey and Arboricultural Implications Report
- Environmental Site Investigation Report
- Extended Phase 1 Habitat Survey
- Flood Risk Assessment
- Transport Assessment
- Ecological walkover assessment
- Employment land and economic benefits assessment
- Letter from occupant of building
- Letter from applicant's letting agent
- Handforth Dean Business Park Marketing Report
- South Manchester Market Analysis

### **APPRAISAL**

The key issues in the determination of this application are:

- Loss of employment land
- Retail impact

- Highways safety and traffic generation

### **ECONOMIC SUSTAINABILITY**

#### **Loss of Employment Land**

The application site is located within an area of Existing Employment Land as identified in the Macclesfield Borough Local Plan. The existing warehouse building, which is to be demolished, is occupied by Gradus Carpets, and the existing office building, which is to be retained, is occupied by Pets at Home and Hotchief.

Policy E1 of the local plan states that “Both existing and proposed employment areas will normally be retained for employment purposes” and policy E2 states that “On existing and proposed employment land, proposals for retail development will not be permitted”. It is therefore clear that the proposal is contrary to policies in the adopted development plan.

Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The Framework is a significant material consideration and includes a presumption in favour of sustainable development. This means that where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly outweigh the benefits, when assessed against the policies in the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

Policies E1 and E2 of the Macclesfield Borough Local Plan are considered to be consistent with the Framework to the extent that they seek to provide and retain a range of employment land in order to facilitate sustainable economic growth. However, paragraph 22 of the Framework states that, “Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose”.

Policy EG3 of the emerging local plan also seeks to protect existing employment sites for employment use, unless there are environmental problems that cannot be mitigated or the site is no longer suitable or viable for employment use. For it to be no longer suitable or viable, there should be no potential for modernisation or alternate employment uses, and no other occupiers can be found.

With regard to the employment land issue, the applicant makes reference to the application which granted consent for the Next store on the opposite side of Earl Road. They maintain that similar to the Next site, the application site has experienced very low market demand for the approved office buildings since permission was granted in 2008, evidenced by the fact the units have never been constructed. Furthermore, another building owned by the applicants of 2407sqm on the opposite side of Epsom Avenue to the application site that was speculatively constructed following planning permission granted in October 2001 has never been occupied and remains vacant over 10 years after being built. The same permission also approved a second office building of the same size, which has not been constructed due to the absence of demand.

As part of the current application submission, the applicant has submitted additional information (compared to the previously refused application) seeking to address the loss of

employment land reason for refusal. This range of documents outline the employment land situation in Cheshire East, the economic benefits of the proposal, details of the marketing of Epsom House (the office building constructed in 2007), a summary of the warehouse and office market in south Manchester, and a letter from the current occupant of the warehouse building (Gradus).

These documents include the following details:

### Background information

- Gradus occupy warehouse employing 7 people.
- Occupied on a short term lease basis (4 month) – does not benefit from security of tenure as would be expected from an ordinary commercial lease.
- Level of rent is significantly below the standard market rate necessary for its long term viability
- Gradus has new owner and their requirements are changing

### Employment land policy context

- Policy E1 of local plan out of date – inconsistent with NPPF
- Emerging plan makes provision for 380ha of employment land across the Borough to 2030.
- 22ha allocated for Handforth of which Handforth East will provide 12ha.
- Council's Employment Land Review (2012) (ELR) suggested need for between 1.74ha and 1.98ha of employment land between 2009 and 2030. Losses likely to come from small sites totally 0.81. Resultant gross requirement is 2.79ha.
- 3 sites identified in ELR as having potential to contribute to employment land portfolio in Handforth totalling 10.7ha including application site.
- Results in an oversupply of at least 7.91ha within the area.
- Approval granted for demolition of warehouse and erection of office blocks. Loss of warehouse considered acceptable by CEC and no justification for citing retention of warehouse as reason to refuse.
- Proposal is mixed use development because offices are being retained.
- Policy E2 is out of date and in conflict with NPPF
- Proposal complies with up to date MBLP policies
- Proposal complies with definition of economic development in glossary to NPPF
- MBLP out of date – limited weight should be afforded to policies E1, E2, E3 and E4
- Emerging local plan makes allowance for employment land losses of 144ha to 2030
- Land loss would amount to 1.03ha, less than 1% of total loss CEC has made provision for.
- Focus for employment land in local plan is very much on the larger towns of Macclesfield and Wilmslow

### Over supply of Employment Land in Handforth

- ELR recommendation of up to 1.98ha of employment land in Handforth at odds with CEC allocation of 22ha of employment land for the same area.
- In quantitative terms loss of site is covered by availability of other sites in Handforth.

### Conflicting approaches to employment land loss in Handforth

- Loss of employment land accepted at Next site opposite

- No clear prospect of current site being used for employment purposes when permission exists for two office blocks totalling 11,333sqm and Epsom House (on opposite side of Epsom Avenue) never been used since construction began in 2007.
- Trampoline Park granted elsewhere on same business park, where officers concluded that there was no reasonable prospect of B1 use class coming forward, and the proposal still provided employment.

### Market attractiveness of the proposed development site

- Site suited to offices rather than B2/B8 uses
- Established office locations Wilmslow town centre, Stockport town centre, Cheadle Royal and Manchester Airport account for over 40% of total take up of office space in south Manchester in recent years
- Site has limited scope to attract occupiers
- Current demand for warehousing is along motorway corridors
- B8 uses can also be met at Airport City part of Manchester Enterprise Zone with associated financial incentives
- Far from ideal access to motorway network
- Area known as a retail destination
- Vacant units –
  - 4 Brooke Park vacant for 4 years before being let to leisure operator
  - Epsom House vacant since 2007
- Rents at Handforth Dean offered below market
- Units 1 and 4 Brooke Park are most recent lettings on business park and both went to leisure operators

### Market demand for application site

- Sustained marketing for Epsom House and Ascot House since 2008
- Access does not meet expectations; surrounding environment is retail; no exposure to A34; location main reason for interest not being progressed.
- Since 2008, 600,000sq.ft of office space has been transacted – no interest in Epsom House or other approved buildings
- Existing warehouse buildings would not attract new occupiers because:
  - Internal layout with level change is unusual
  - Building is approximately 40 years old and unsuitable for modern occupiers
  - Poor motorway access
  - Internal layout poor
  - Eaves height too low
  - Building has 50% site coverage which is higher than ideal 35-40% to allow for turning, loading etc.
- Not commercially viable to bring building up to modern day standards

### Economic benefits

- 10 FTE jobs in construction, assuming a 12 month build programme
- 15 FTE jobs could be supported over the 12 month programme through linkages with construction programme
- Supply chain expenditure
- Contribution to local economic output
- 283-291 FTE jobs when operational

- Business rate contributions
- S106 contributions offered towards employment generation and investment in people and skills development, apprenticeships and / or infrastructure works at employment sites in the Handforth area.

The applicant concludes that, having regard to all of the above information, demand does not exist for this type of floorspace in this location and there is therefore no reasonable prospect of the site being used for that purpose.

However, it should be noted that the employment land requirement in the emerging local plan, which was based upon the 2012 Employment Land Review (ELR) undertaken by Arup, has increased from the previously proposed 351ha within the submission version of the Local Plan Strategy to a gross requirement now of 378ha. This new higher figure is based on the latest (2014) Cheshire & Warrington Econometric Model (CWEM) employment projections, as opposed to the 2011 figures that the Council's 2012 ELR was based upon.

The employment evidence base collated by the Council to support the proposed quantum and distribution of land to meet employment requirements includes a report by Ekosgen called '*Alignment of Economic, Employment & Housing Strategy*'. This report (July 2015) assesses levels of potential employment growth over the Local Plan period in light of the publication of updated economic projections; and the associated implications for employment land requirements, including Cheshire East's ability to capture such growth, based on the area's historic performance and the availability of employment land and associated infrastructure.

This report notes that with regard to the distribution of the additional 27ha of employment land, it is noted that the north of the Borough will continue to be attractive to businesses keen to be based in locations with easy access to Manchester City Centre. As such there is a strong case to allocate a substantial proportion of any additional land to the north of the Borough.

The proposed distribution of employment land across the Northern settlements of Cheshire East has been accordingly increased in the Proposed Changes Version of the Local Plan Strategy.

The proposed level identified for Handforth is 22ha, which includes 12ha within the proposed North Cheshire Growth Village, plus an additional 10ha. The latest iteration of the Local Plan Strategy notes that on 31 March 2013 there was a supply of 9.72ha (which includes the application site), leaving 0.28ha to be found via the site allocations process to meet the 10ha requirement. However, it should be noted that the supply also appears to include the site of the new Next store, and as such the area to be identified through the site allocations may be higher (approximately 1.26ha higher).

Added to this, whilst the applicant's comments regarding the absence of any interest in their existing office developments / permissions are noted, the fact still remains that the buildings on the site are currently occupied for employment uses. It is therefore impossible to conclude that there is no "*reasonable prospect of a site being used for that purpose*". The land allocation is currently being reviewed as highlighted above through the local plan process and

as noted there is a requirement for more employment land provision, particularly in the north of the Borough.

Consequently there is not considered to be any material planning considerations to justify the loss of the employment land. The proposal is therefore contrary to policies E1 and E2 of the Local Plan.

### **Retail Impact**

Policy S2 of the Macclesfield Borough Local Plan deals with proposals for new retail development outside of existing centres. This policy includes that there should be a proven need for the proposal. However, the Framework supersedes this and does not require applicants to demonstrate the need for the development. The Framework does require that proposals demonstrate that they satisfy both the sequential test and the impact assessment tests. Paragraph 27 of the Framework is clear that where an application fails to satisfy the sequential test or is likely to have significant adverse impacts, it should be refused.

On this basis, the Council need to be satisfied that there are no more sequentially preferable sites available and that there would not be a significant adverse impact on investment in centres within the catchment of the proposal or on town centre vitality and viability.

### THE SEQUENTIAL APPROACH

Paragraph 24 of the Framework requires:

*“applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered... Applicants and planning authorities should demonstrate flexibility on issues such as format and scale.”*

The site is allocated as an Existing Employment Area under policies E1, E2 and E3 of the MBLP. The site sits to the north of Handforth Dean Shopping Centre which is not a designated retail shopping area. The nearest centre is Wilmslow town centre which is approximately 2.5km to the south. Therefore, the site is located in an out of centre location. There are a number of site and application specific factors relevant to consideration of the site at Earl Road under the sequential test. These are summarised as follows:

- The proposed site is 1.87 ha;
- The proposed car park consists of 240 spaces (including 17 disabled spaces) 40 cycle parking spaces and 10 motorcycle spaces;
- There is a total floorspace of 6035sqm and a net sales area of 5,130sqm;
- The development is divided into seven units, five are for non-food retail and two are for non-food retail, cafe/restaurant or sandwich;

The Framework states that the application of the sequential test should be proportionate and appropriate for the given proposal. The test also requires a demonstration of flexibility for the proposed development. If no town centre sites are found, preference should be given to accessible sites in an edge of centre or out of centre location that are well connected to the town centre. Only if there are no suitable sequentially preferable locations, the sequential test is passed. The NPPG also mentions that robust justification must be provided to show if certain main town centre uses have particular market and locational requirements that may only be accommodated in specific locations.

The applicant's retail submission in terms of the sequential assessment relies mainly on the details submitted as part of the previously refused application. The applicant has re-visited the same sites considered previously in and on the edge of Handforth District Centre, Macclesfield Town Centre, Stockport Town Centre and Wilmslow Town Centre.

### Handforth district centre

Handforth accommodates local shopping requirements on a limited scale. Some of the smaller units would be able to accommodate the A3/A5 units proposed by the application. However, in relation to the sequential approach to development, it should be assessed whether the whole scheme (with a degree of flexibility) could realistically be moved to another location. Any potential sites in Handforth are too small to accommodate the whole scheme and therefore there are no known sequential sites that could be considered available or suitable for the proposed development in Handforth district centre

### Macclesfield town centre

*"Silk Street", Macclesfield (Duke Street Car Park, Exchange Street Car Park and Churchill Way)*

It is acknowledged that it is the Council's aspiration to provide a leisure-led development and that bids have been put forward by developers on that basis. However, this does not detract away from the fact that elements of retail to improve the overall town centre offer could still form part of the wider masterplan for the sites. However, in light of the clear aspirations of the Council to deliver a leisure-led scheme, it is considered that the site could not accommodate the proposed development and quantum of retail floorspace proposed even when allowing for a sufficient degree of flexibility. Therefore the site at Silk Street does not represent a sequential alternative to the application site.

### *Former TJ Hughes, Roe Street*

The site is too small for the proposed development and it has recently been let so it is no longer considered to be available as it is now occupied by B&M since September 2014.

### *Macclesfield Train Station*

The site is currently used as town's train station and therefore the site is unsuitable for the proposed development. There is no information suggesting that it is available in short term and therefore can be discounted as a sequentially preferable site.

### *Craven House, Churchill Way*

The site extends to 0.05ha which is too small for the proposed development and therefore can be discounted as a sequentially preferable site.

### *Former Cheshire Building Society*

The site located in the Primary Shopping Area extends to 0.4ha which is too small for the proposed development. Therefore it is not suitable for the proposed development.

### *Macclesfield Town Centre Vacant Units*

None large enough to accommodate the proposed development.

### *Black Lane, Macclesfield*

This site is considered to be in a more sustainable location than the application site, particularly with the inclusion of a bridge across the River Bollin as part of the outline application proposals (15/5676M). However, this application for retail development on this site was refused in September 2016 due to its impact upon Macclesfield Town Centre. However, as noted during the consideration of application 15/0400M, it is considered that the Black Lane site and the proposed site will provide two retail parks which will serve different catchments, both in size but also nature. As recent appeal decisions have indicated, what is required to be proven is that development at a sequentially preferable site should not be delayed, stalled or otherwise impaired by development permitted at a less central location. There is no evidence to suggest that the development at Earl Road would prejudice or stall the development at Barracks Mill due to the different catchments these proposals will serve. As such, on sequential grounds both developments could progress, as they would trade within related but different catchments. Whilst it is considered that the site at Black Lane is available for the proposed scale of retail development, the site is not suitable to accommodate a development which will serve the same catchment area as the development at Earl Road.

Stockport town centre

*Bridgefield*

Permission exists for the construction of a cinema, restaurants, shops and associated works. The level of A1 retail units is constrained to 1,605sqm and therefore only represents approximately 25% of the proposed development at Earl Road and therefore Bridgefield is unlikely to be able to accommodate the whole proposed development.

*Merseyway*

None large enough to accommodate the proposed development.

*Knightsbridge*

The site is currently occupied by a range of uses and is not being actively marketed. Therefore, it is considered that although the site would be suitable for the scale of the development proposed, it appears that it is unavailable for the proposed development in the short term. There is not any development being proposed on this site that that could be considered comparable to the proposed development at Earl Road and therefore does not represent a sequentially preferable site.

*Fletcher Street Car Park*

The site extends to 0.3ha and therefore the site is considered to be too small for the proposed development (even after significant flexibility) and therefore unsuitable.

*Former Royal Mail Sorting Office, Exchange Street*

The former Royal Mail sorting office site extends to 0.25ha, located at an edge of centre location. The site is still owned by Royal Mail and is not being actively marketed; therefore it appears that it will not be available in the short term. In any event, the site is too small for the proposed development and therefore is not suitable and should be dismissed as a sequentially preferable site as it is unlikely to be able to accommodate the level of proposed development or even a reduced form after reasonable flexibility has been applied.

*Stockport Town Centre Vacant Units*

None large enough to accommodate the proposed development.

Other sites raised in the representations to the previous application include:

- Unit 6 Peel Centre
- Peter Carlson showroom site
- Stockport Exchange area within the town centre
- Small units within district and local centres, including Bramhall, Cheadle Heath, Cheadle, Gatley and Heald Green.
- Gas Holder site to rear of Peel Centre

None of which were previously found to be sequentially preferable, and there are no known change in circumstances that would lead to a different conclusion now.

### Wilmslow town centre

#### *Alderley Road, Wilmslow*

The Site extends to 0.2ha and is allocated for mixed use development, and is too small to accommodate the proposed development in its entirety or even with a degree of flexibility; the proposed development would not be able to be accommodated within the site and therefore is not considered suitable. The applicant also confirms that the site is not available as a number of operators are present and the site is not available in a reasonable time period.

#### *Wilmslow Town Centre Vacant Units*

It is unlikely that any vacant units would be suitable to accommodate the proposed scheme either in whole or in part (with a degree of flexibility).

### TOWN CENTRE IMPACT

The two key impact tests identified by paragraph 26 of the NPPF are considered below. The tests relate to:

- The impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made.

#### Impact on existing, committed and planned public and private investment

There is no known change in circumstances since the previous application was refused. It is considered that the proposal would not have any impact on investment in the identified centres of Handforth, Wilmslow, Macclesfield and Stockport.

#### Impact of the proposal on town centre vitality and viability Including Local Consumer Choice and Trade in the Town Centre and Wider Area

As part of the previous application (15/0400M), the existing overall vitality and viability of Macclesfield and Stockport were considered. Some of the key diversity characteristics are summarised below.

#### *Macclesfield*

Macclesfield is well represented in the comparison goods sector with a higher than average percentage of units and floorspace, although both the number and percentage has fallen

since the last survey in 2009. Mill Street and the Grosvenor Centre provides a location for a number of the major national retailers, with a number of the town centre's largest stores found on these streets, including Marks & Spencer, New Look, Boots, Dorothy Perkins and Burtons. Chestergate and Exchange Street offer a range of shops such as jewellers and fashion outlets. The indoor malls of the Grosvenor Centre also provide important facilities for independent traders.

The percentage of vacant units within Macclesfield town centre has remained consistently above the national average. The amount of units vacant within the centre from 2006 has risen from 57 in 2006 to 71 in 2009. The percentage of vacant floorspace was below the national average in 2006, around the national average in 2009 and now above the national average in 2015. The amount of vacant floorspace in Macclesfield has increased since 2009 from 8,400 sq.m to 15,310 sq.m in 2015.

Macclesfield contains 14 of the 'top' 27 retailers within the Goad town centre boundary. Further retail development aimed at attracting national multiple retailers has now commenced at the Grosvenor Centre, with TK Maxx being an intended operator. This will remove the largest vacant unit within the town centre, which has been vacant for a number of years. Despite Macclesfield's higher than average vacancy rate, it does have some good national multiple retailers for a town of this size, which will be added to upon the completion of the new retail development next to the Grosvenor Centre. It is also noted that with the development of the Silk Street site for a leisure-led development, there is the opportunity to enhance the town centre and assist to increase visitor's dwell time within the centre.

However, there are some concerns over the health of the centre which needs to be addressed to ensure the centre continues to compete with other centres both within Cheshire East but also further afield in Greater Manchester.

### *Stockport*

The SRSU concludes that the town centre has lost market share since 2004, confirmed by its fall in the national rankings and household survey results. In the comparison goods sector, the main national multiples include M&S, Debenhams, BHS, Next, Primark, H&M and Boots, with the majority of the larger comparison retail units located within the Merseyway Shopping Centre and at the Peel Centre.

There is a high vacancy level, particularly in terms of the number of units, although a number of these units are relatively small and only three vacant units measure over 500sqm. The town centre benefits from a strong diversity in the functions it performs as an important civic centre, as an important centre for education and health, and as an office location in the wider South Manchester market. The centre also has a number of key strengths in relation to its unique, historic heritage; in relation to the successes stimulated by the Portas initiative; and in relation to the way the Council and its investment partners have responded to the recession.

Overall, Stockport has a significantly high number of vacant units, although the types of units are relatively small and therefore not necessarily suitable to accommodate large format national multiples. As such, a number of the larger retailers are now located at The Peel Centre on the edge of the centre, which attracts a high proportion of shopping trips. There are deficiencies within the centre but the Council is working hard to regenerate key areas to enhance the overall provision and offer.

The above summaries demonstrate that both Macclesfield and Stockport have struggled over the past ten years and have higher than average vacancy rates and a lack of modern format retail units to accommodate national multiple retailers.

### Trade Diversion and Impact

During the previous application, the applicant originally indicated in their submission that as there was no identified occupier, a sales density of £2,678 per sqm had been calculated on the basis of an average of carpet, clothing, DIY, furniture, homeware and toy retailers and was taken from Mintel Retail Rankings 2013. Subsequent to this the applicant was asked to increase the sales density to £10,000 per sqm to provide a more robust assessment having regard to the existing flagship M&S, Tesco Extra, Next Home and Outfit (Miss Selfridge, Burton, Top Man, Top Shop etc) occupants which would result in the ability to command higher rental values for the additional units than a typical retail warehouse park and therefore it would be expected that occupants of the new units would be those who are able to generate higher sales densities; i.e. clothing, electrical, homeware or even chemist retailers (such as Boots). The previous application assessment was subsequently based on this higher sales density rate.

The planning and retail assessment with the current application reduces average sales density (ASD) for the floorspace proposed to £5,582 per sqm at 2016. This is an average of the sales densities of five clothing retailers that typically locate on UK retail parks (the five with the highest sales densities and taken from Mintel's UK Retail Rankings, dated April 2016). This does not take into account Next which has recently opened a new store on the adjacent site and would clearly not seek a further store in the Handforth area. The applicant has grown this ASD forward to 2019 i.e. the likely design year (at which it is £6,011 per sqm) and 2021, five years from now (at which it is £6,315 per sqm).

Therefore, whilst the sales density figures are below those recommended by the Council's consultant previously, an identical application has already been considered using higher sales density figures as a worst case scenario for robustness and found to be acceptable.

For information, the table below compares the impact (trade diversion) figures now put forward by the applicant (NLP figures) with those provided by WYG in its previous advice to the Council.

### **Cumulative impact of application proposals and commitments in 2019 and 2021**

Destinations	<u>NLP</u>	<u>NLP</u>	<u>WYG</u>
	Cumulative Impact in 2021 (%)	Cumulative Impact in 2019 (%)	Cumulative Impact in 2019 (%)
Macclesfield	-3.7	-3.9	-8.0
Congleton	-1.1	-1.1	-1.8
Wilmslow	-2.6	-2.7	-3.4
Nantwich	-0.8	-0.9	-1.4
Stockport (includes the Peel Centre)	-5.3	-5.5	N/A
Cheadle	-1.1	-1.2	-2.0
Cheadle Hulme	-1.4	-1.5	-2.6
Bramhall	-1.4	-1.5	-2.6

It should also be noted that WYG identified a cumulative impact upon Stockport town centre of 6.3%, but is identified as “N/A” in the table above, as the applicant’s figures also include the Peel Centre as part of Stockport Town Centre (in line with glossary to the Framework, which states that a town centre is defined as an area on a *proposal map*, “including the Primary Shopping Area and areas predominantly occupied by main town centre uses within or adjacent to the Primary Shopping Area”).

The applicant has also explained that there are two reasons why their (NLP) impact figures are less than those arrived at by WYG:

- The NLP assessment adopts what is considered to be a realistic average sales density for proposed development; and
- The NLP assessment models trade diverted to commitments at 22-26 Castle Street and King Edward House (both in Macclesfield) and the Bridgefield, PC World and Unit 6 (both the Peel Centre) commitments in Stockport town centre as an increase in the turnover of those centres.

However, as with the previous application the highest impact is estimated to be felt on Macclesfield and Stockport town centres. In light of the current health of Macclesfield and Stockport, there are some concerns that impacts on these two centres to that level has the potential to cause some damage to the overall vitality and viability and their market shares. However, WYG considers that if the proposed floorspace was suitably controlled to reflect the nature of the retailers proposed as part of the previous application, then the potential impact on the centres could be mitigated. WYG suggest that a condition could provide thresholds for certain types of goods, to ensure that the proposed units do not compete directly with retailers in the town centres and instead, performs as a more ‘traditional’ out-of-centre retail destination with a proportion of the floorspace dedicated to bulky goods retailers.

## ENVIRONMENTAL SUSTAINABILITY

### Character and appearance

The application site is located within an Employment Area which is characterised by buildings built more for function than form. The proposed retail units adopt a relatively simple form with parapet around the roof and entrance features for each unit. The design is considered to be

adequately in keeping with the local area. It is a little unfortunate however that the proposed development will face onto what is the back door and service yard of the new Next store opposite. However, the proposal is considered to comply with policies BE1 and DC1 of the local plan.

### **Accessibility**

The applicant maintains that the site is well located in terms of its proximity to pedestrian and public transport services, and its connections to Handforth Dean Retail Park and the proposed Next retail unit.

However, accessibility was a significant issue raised at the time of the Next application for the site on the opposite side of the road, and remains so with the current proposal. The hourly bus Service (312) between Handforth Dean and Stockport runs along Earl Road, and there are some free services operated by Tesco which would be within a short walk of the site. Apart from these services the nearest are those along Wilmslow Road and Station Road in Handforth, about a kilometre away, which provide services to other destinations including Manchester and Wilmslow. The transport assessment confirms that a travel plan will be prepared to encourage the use of other forms of transport. However, without adequate provision for non car modes, a travel plan will be largely ineffective.

Mitigation is therefore required to make the development acceptable in planning terms, as it was for the extant office permission. The office permission secured contributions towards bus stops in the vicinity, improvements to provision for pedestrians and cyclists in the vicinity and a contribution towards public transport improvements. The same would be required for the current proposal.

In addition, accepting the fact that most users of the site will inevitably use the private car, the provision of electric car charging points is recommended, as it was with the Next scheme. Such provision has also been recommended by Environmental Health.

### **Amenity**

There are no residential properties within close proximity of the application site. As such, no significant amenity issues are raised.

### **Highways**

The proposed development has a new access onto Earl Road with the servicing taking place using Epsom Avenue and Arkle Avenue. The proposed access is located in the same position as the approved office development and is close to the end of Earl Road.

There would be 240 parking spaces provided within the site including disabled parking and there also is 40 cycle parking spaces proposed.

### Traffic Impact

In considering the traffic impact of the development the applicant has taken into account the existing permission for the office development on this site compared to the proposed retail development. There are specific differences between approved office and proposed retail developments in that the peak hour impact is predominately in the am for the office and less so for the retail proposal. The evening peak for the retail is the worse case in terms of traffic generation and needs to be considered. The applicant has stated that only 50% of trips to

this development will be new trips on the network. Whilst it can be accepted that due to the proximity of the site to other retail destinations a reduction can be made for linked and transferred trips the figures presented in the TA does not provide evidence that this proposal would warrant such a reduction in trips.

Considering the figures submitted, the office development has a higher traffic generation than the proposed retail development in the morning and evening peak hours. This development would have a higher impact at the weekend than the approved office development but the level of existing background traffic flows on the network is lower and the major junctions on the A34 are not operating at the same level of pressure as in the daytime morning and evening peaks.

The applicant has undertaken junction assessments at locations where the development would have a material impact and these are Stanley Road/Earl Road traffic signals and at the Stanley Road / A34 roundabout. Clearly, these junctions are not within CEC and are the responsibility of Stockport and comments on the development impact of the proposals on these junctions should be sought from Stockport. The development does add additional traffic to the CEC road network especially at Coppice Way junction although these are small percentage increases and does not constitute a severe impact on the road network.

### CEC Highways Summary

The previous permission for Office development on this site is a material consideration on this application, as the new current proposal for a retail use would produce less traffic than the office development and therefore can be seen as a benefit in highway terms. There will be a number of trips to the site that will have already travelled to the nearby Handforth Dean and Stanley Green retail parks and as such the number of new trips will be reduced but not in the opinion of the Head of Strategic Infrastructure to the level proposed by the applicant. However, taking a 30% reduction in trips which is more reasonable, this will not materially change the impact on the CEC road network but would increase the level of traffic using the Stockport junctions.

There were a number of contributions agreed relating to the mitigation of the impact of the Office development and some of these mitigation contributions are relevant in regard to this application i.e the improvements to pedestrian and cycle routes and also improvements to public transport as this would be pooled with the contribution secured to public transport from the Next application. Contributions to mitigate the traffic impact, is a matter for Stockport to consider as the major impact falls at junctions under their control.

### Stockport MBC Highways

Comments are awaited from Stockport MBC Highways. However on the previous application they noted that the proposed retail development would be far from ideally located for access by travel modes other than the private car.

In addition they noted that the proposed development will have an unacceptable and demonstrably severe impact on the operation of the Earl Road/Stanley Road junction and this would justify refusal unless the impact can be mitigated by bringing forward the delivery of improvements to the junction. This requires the applicant to either prepare a package of improvements which could be delivered under a planning condition and appropriate highway legal agreement or agree to the payment of a financial contribution under the terms of a S106

Agreement. The terms of the s106 would be the same as for the approved office development.

### **Ecology**

The nature conservation officer has provided the following comments on the application:

#### Habitats

Part of the site supports habitats that based on the species present could be designated as a Local Wildlife site under the grassland selection criteria. However, the nature conservation officer advises that the habitats themselves, being associated with a derelict urban site, fit better with the “ephemeral/short perennial” phase one habitat as such are not considered to be of significant nature conservation value.

#### Bats

An initial bat survey has been submitted in support of the application. The buildings affected by the proposed development offer limited potential for roosting bats and roosting bats are unlikely to be present or affected by the proposed development.

#### Great Crested Newts

Having regard to the character of the nearby water bodies, the location of the application site and its distance and isolation from the waterbodies, great crested newts are unlikely to be affected by the proposed development.

#### Hedgerow

Hedgerows are a priority habitat. The proposed development would result in the loss of a section of hedgerow from the interior of the site. The submitted landscape plan includes the planting of a replacement hedgerow however the planting appears to be spaced at 1m intervals which does not seem appropriate for the establishment of a hedgerow. In the event that the application is approved, the planting could be dealt with by condition.

#### Nesting Birds

Conditions are recommended to safeguard nesting birds.

### **Trees and landscape**

The proposal will necessitate the removal of 19 trees for the development of which 14 have been assessed as Moderate (B) category trees, with the remaining 5 trees Low (C) category. A further 4 trees (identified in red on the plan) and one off site unidentified group (G10) (also shown in red) are presumably proposed for removal by virtue of their poor condition.

None of the trees within the site are afforded TPO protection and whilst some contribute to the visual amenity of the area, being visible from Epsom Avenue and Arkle Avenue, their contribution is not considered to be significant in the wider context.

The Assessment also proposes a no dig construction where proposed hard standing areas/car parking conflicts with the Root Protection Area of retained trees which will be dependent upon existing/proposed levels, particularly given that the area proposed for no dig is close to the new building.

Proposed tree losses have been identified as 45% of the total tree cover and the Assessment suggests mitigation for such losses will comprise of replacement planting of 180% of existing tree stock. In terms of numbers this appears to be reasonable, however the space allocated for landscaping appears relatively small and the future growth potential of such planting will be limited to predominantly ornamental species, given the proximity of new buildings. However, having regard to the commercial character of this area, it is considered that an acceptable landscaping approach can be achieved.

Should planning consent be granted, conditions relating to tree retention, tree protection, method statement for construction in RPAs, and landscaping will be required.

### **Flood Risk**

No comments have been received from the Flood Risk Manager, however he did review the previous proposal and confirmed that there are no objections on flood risk grounds.

The developer will need to provide evidence that there will be no increase in flood risk either on or off-site as a result of the increase in impermeable area, and accordingly a condition requiring the detailed proposals for the disposal of surface water is recommended. United Utilities also raise no objection.

### **Contaminated land**

The Contaminated Land team has no objection to the above application subject to the following comments with regard to contaminated land:

- The application area has a history of depot use and therefore the land may be contaminated
- The submitted report, REC October 2016 is a minor update of the REC December 2014 report which was submitted previously. There appears to be no substantial changes to the report. The report provided both phase 1 and phase 2 information, however, all the site investigation works were carried out in 2004 prior to demolition of the previous structure. Whilst some effort has been made to revise the information there has been no current site walk over or site investigation so it is uncertain whether any land contamination issues may have arisen in the years since the report was produced. As such further information is requested:
  - A current detailed site walk over;
  - Existing site investigation locations overlaid onto a current day map and the proposed new development layout map;
  - A review of the investigation locations for discussion and if information gaps exist a (small scale) post demolition investigation be carried out.

In the event of approval, appropriate conditions would be required.

## **SOCIAL SUSTAINABILITY**

### **Open space**

Having regard to the Council's SPG on Planning Obligations the development does trigger the requirement for open space contributions in lieu of on site provision, as the development will create some demand for open space / recreation facilities. These contributions amount to £90,525 for open space and £90,525 for outdoor sport and recreation. Given the location of the site and its distance to existing facilities that would be improved with any financial

contributions, this impact is unlikely to be significant. Therefore the figure of £12,500 for open space and £12,500 for outdoor sport and recreation offered by the applicant is considered to fairly and reasonably be related in scale and kind to the development, and can be seen as a benefit of the proposal. This would be consistent with the approach taken with the Next site on the opposite side of Earl Road.

### **ECONOMIC SUSTAINABILITY**

As noted above, the applicant has identified the following economic benefits arising from the proposal:

- 10 FTE jobs in construction, assuming a 12 month build programme
- 15 FTE jobs could be supported over the 12 month programme through linkages with construction programme
- Supply chain expenditure
- Contribution to local economic output
- 283-291 FTE jobs when operational
- Business rate contributions
- S106 contributions (£282,000) offered towards employment generation and investment in people and skills development, apprenticeships and / or infrastructure works at employment sites in the Handforth area.

These are considered further below in the planning balance.

### **PLANNING BALANCE**

The application site is allocated as an Existing Employment Site in the Macclesfield Borough Local Plan where policies E1 and E2 seek to provide and retain a range of employment land in order to facilitate sustainable economic growth.

Paragraph 22 of the Framework states that, “Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose”.

Paragraph 14 of the Framework applies where it states that LPAs should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The benefits in this case are:

- 10 FTE jobs in construction, assuming a 12 month build programme
- 15 FTE jobs could be supported over the 12 month programme through linkages with construction programme
- Supply chain expenditure
- Contribution to local economic output
- 283-291 FTE jobs when operational
- Business rate contributions

- S106 contributions towards employment generation and investment in people and skills development, apprenticeships and / or infrastructure works at employment sites in the Handforth area.
- Contribution towards open space provision

The development would have a neutral impact upon the following subject to mitigation:

- There is not considered to be any significant drainage implications raised by this development.
- The impact upon trees is considered to be neutral.
- The impact upon the residential amenity/noise/air quality/landscape and contaminated land could be mitigated through the imposition of planning conditions.
- Highway impact would be broadly neutral due to the scale of the development having regard to the previous permission and appropriate mitigation
- Retail impact on existing centres

The adverse impacts of the development would be:

- The loss of employment land
- Loss of biodiversity

There are clear benefits arising from the proposal including the number of jobs and financial contributions towards offsetting the loss of this employment site. A similar financial contribution was secured as part of the Next scheme (on the opposite side of Earl Road) on the basis that at that time there was no reasonable prospect of the Next site being used for employment purposes. Therefore in an attempt to make the remaining allocated employment site more attractive to B1, B2 and B8 occupiers, contributions towards the infrastructure of the wider employment site were secured as part of the overall planning balance in order to increase the chances of it being brought forward for employment development. The Earl Road site is currently the subject of an application for a substantial retail development, which would indicate that the contribution towards infrastructure for employment uses has had limited effect in encouraging such uses to the site. It is not clear exactly what use the proposed financial contribution would be in this case, given the loss of an employment site that is currently in active use, and the significant need for more sites within the Northern part of the Borough that has been identified through the emerging local plan process. A more appropriate offer, given the conflict with policy would be the provision of an alternative site to mitigate for the loss.

The justification for policy E2 of the local plan explains that retailing is not permitted (on existing employment sites) because it would reduce the amount of employment land available and provision is made elsewhere for retailing. It is acknowledged that the proposal would generate a significant number of jobs, however it is not considered that the merits of the proposal should be judged by the numbers of jobs it creates. B8 uses are an employment use and do not typically generate the same number of jobs as a B1 or B2 use with a comparable floorspace. Employment allocations are important to provide land for substantial buildings (including warehouse buildings) that cannot be located elsewhere such as in town centres or countryside locations.

The proposal will result in the loss of employment land at a time when the Council is actively seeking additional employment land allocations as part of its emerging local plan. The need for sites is such that even Green Belt locations are currently identified as being required for

the provision of the employment land allocation in the emerging local plan. Given the extent of Green Belt in the northern part of the Borough, the loss of the application site would exacerbate this situation and place further pressure to locate sites within the Green Belt.

Whilst policy E2 states that proposals for businesses where there is an element of mixed retail and business may be permitted if the retail element is ancillary to the other uses, in this case an ancillary retail use is not proposed. Policy EG3 of the emerging local plan also states that where it can be demonstrated that there is a case for alternative development...all opportunities must be explored to incorporate an element of employment development as part of a mixed use scheme. The previous scheme was amended to include the retention of the Stanley Court office building in the north eastern corner of the site, and again as part of this proposal these offices are retained. The retention of the existing offices is of course a positive aspect of the proposal, particularly as they are currently occupied. However, the fact remains that there is no employment development associated with the current proposal. The existing office building is simply being retained as part of the proposal. Added to this, given that the warehouse building is currently occupied, it is not considered that there is a case for alternative development at this time.

The additional information submitted by the applicant since the previous application relating to the employment land situation in Cheshire East, the economic benefits of the proposal, details of the marketing of Epsom House (the office building constructed in 2007), a summary of the warehouse and office market in south Manchester, and a letter from the current occupant of the warehouse building (Gradus) is acknowledged. However, the fact that the warehouse building is currently occupied indicating that there is some demand from businesses for the site in its current form. It cannot therefore be concluded that there is no reasonable prospect of the site being used for employment purposes, in accordance with paragraph 22 of the Framework.

The proposal will lead to a loss in the amount of employment land in the Borough, which is considered to significantly and demonstrably outweigh the benefits of the proposal. The proposed development is therefore contrary to policies E1 and E2 of the Macclesfield Borough Local Plan, policy EG3 of the Proposed Changes Version of the emerging Cheshire East Local Plan Strategy and paragraph 22 of the Framework.

### **RECOMMENDATION**

It is recommended that the application is refused for the following reason:

- 1. The proposal seeks to provide a retail use on a site allocated for employment purposes. The existing warehouse and office buildings on the site are currently occupied, and it has therefore not been demonstrated that there is no reasonable prospect of the site being used for employment purposes, as required by paragraph 22 of the NPPF. The development is therefore contrary to policies E1 and E2 of the Macclesfield Borough Local Plan and policy EG3 of the Proposed Changes Version of the emerging Cheshire East Local Plan Strategy.**

*In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval/refusal) prior to*

*the decision being issued, the Head of Planning (Regulation) has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.*

Should this application be the subject of an appeal, the Head of Planning regulation has delegated authority to enter into a S106 Agreement to secure the following Heads of Terms:

- Financial contribution of £65,372 to CEC for improvements to provision for pedestrians and cyclists in the vicinity
- Financial contribution of £65,372 to CEC towards public transport improvements
- Financial contribution of £200,548 to Stockport MBC towards junction improvements in the Borough of Stockport.
- Financial contribution of £12,500 for public open space improvements in the locality
- Financial contribution of £12,500 for outdoor sport and recreation improvements in the locality
- Financial contribution of £282,000 towards employment generation and investment in people and skills development, apprenticeships and / or infrastructure works at employment sites in the Handforth area.

### **CIL Regulations**

In order to comply with the Community Infrastructure Levy (CIL) regulations 2010 it is necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The contributions towards sustainable transport initiatives are necessary, fair and reasonable in order to provide a sustainable form of development and to comply with local and national planning policy.

The junction improvements within Stockport are required to mitigate for the highways impact of the development, necessary to make the development acceptable, and fair and reasonable.

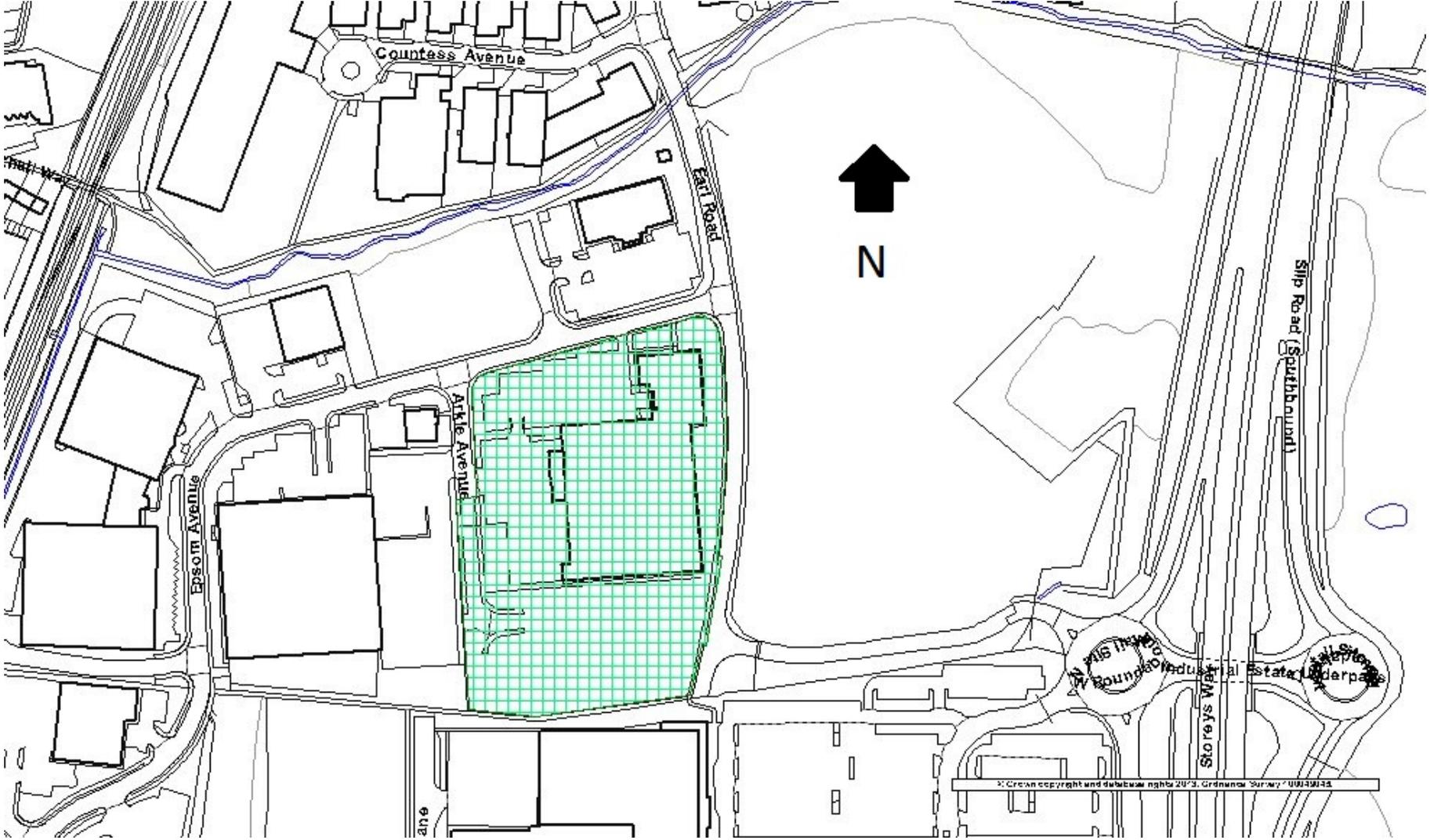
The financial contributions towards improvements towards public open space and outdoor sport and recreation are necessary, fair and reasonable to provide a sustainable form of development, to contribute towards sustainable, inclusive and mixed communities and to comply with local and national planning policy.

The financial contribution towards employment generation and investment in people and skills development, apprenticeships and / or infrastructure works at employment sites in the local area is necessary, fair and reasonable to mitigate for the impact of the development and the resultant loss of employment land.

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of the development

RECOMMENDATION:

1. The proposal seeks to provide a retail use on a site allocated for employment purposes. The development is therefore contrary to policies E1 and E2 of the Macclesfield Borough Local Plan.
2. NPPF
3. Plans



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Application No: 17/0195C

Location: Land off, WAGGS ROAD, CONGLETON

Proposal: The erection of 104 residential dwellings, including open space, together with associated works including landscaping, the formation of access, site works, necessary engineering works to facilitate highway and footway improvements to Waggs Road and other necessary works.

Applicant: Mr Mike Stone, Bellway Homes Ltd (Manchester Division)

Expiry Date: 19-Apr-2017

## SUMMARY

The proposed development would be contrary to Policy PS8 & H6 and the development would result in a loss of open countryside. However Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development.

It is therefore necessary to consider whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

The development would provide benefits in terms of affordable housing provision, delivery of housing, POS, a play area and economic benefits through the usual economic benefits during construction and through the spending of future occupiers.

The development would have a neutral impact upon education, protected species/ecology, flooding, living conditions, landscape, trees, design and contaminated land.

The adverse impacts of the development would be the loss of open countryside and the severe impacts to highway safety.

Whilst locational sustainability is not a determining factor in its own right this is considered to weigh against the proposal in the overall planning balance. Given the distance of the site to local services/amenities future occupants would have no option but to utilise the substandard access routes in order to reach these services/amenities. Whilst the Council actively encourage walking rather than use of motor vehicle, it does not encourage the use of unsafe pedestrian routes.

As a result the development is clearly contrary to open countryside policies yet as it stands these are considered out of date. So the presumption in favour of sustainable development applies. However, with reference to the Richborough Court of Appeal weight can be given to those policies.

There is now a solution to the housing supply in hand through the forthcoming adoption of the Local Plan. As a consequence of the Inspectors most recent comments in December increased weight can be afforded to these 'out of date' policies. In addition given the progression of emerging policies towards adoption it is considered that greater weight can now be given to those emerging policies. A further factor that weighs against the scheme is the scale and location of the development which extends further away from the village settlement.

Therefore taking a balance of the overall benefits, the current policy position and the scale of harm it is considered that the presumption in favour is outweighed in this case and a recommendation of refusal is made.

## **RECOMMENDATION**

### **REFUSE**

## **PROPOSAL**

The application seeks full planning consent for the erection of 104 residential dwellings, including open space, together with associated works including landscaping, the formation of access, site works, necessary engineering works to facilitate highway and footway improvements to Waggs Road and other necessary works.

The dwellings would comprise 16 two bedroom properties (all affordable), 50 three bedrooms properties (40 open sale 10 affordable) and 36 four bedroom properties. The affordable dwellings would be 65% affordable rent and 35% shared ownership.

The density of the proposal will be 28.65 dwellings per hectare

The development would have a mix of dwelling types including detached, semi-detached and mews style properties, all of which would be two-storey, with varying finishes including brick and render.

Access, both vehicular and pedestrian would be taken from a single point adjacent to No.124 Waggs Road.

The north western corner of the site is to be retained as an area of public open space, with the existing trees and vegetation to be retained.

A Local Area of Play (LAP) is proposed centrally within the site.

## **SITE DESCRIPTION**

The application site comprises an irregular parcel of Greenfield land, 3.63 hectares in size, situated to the south of Waggs Road and Meadow Avenue, Congleton. The land is designated as being within the open countryside in the adopted local plan.

The land is in agricultural use and is Grade 3 (subject to urban pressures). There are native hedgerows on the northern boundary with the existing housing development, a bank top hedgerow on the western boundary with Fol Hollow and a hedge and trees on part of the southern boundary in the vicinity of New Bank Farm. The remainder of the southern boundary and the eastern boundary are largely open giving views towards the hills. The site is divided by a continuous central hedge running north-south and there are two mature field oak trees near to the proposed site entrance.

Public Footpath No.6 runs along the eastern boundary of the site.

The north western corner of the site slopes steeply down several metres to Waggs Road where there is a large amount of mature vegetation and this is a valuable habitat for protected species.

### **RELEVANT HISTORY**

20958/1 & 20956/1 – 8 NEW HOUSES – Refused 02-May-1989 for the following reason:

- 1. the proposed development would be contrary to the policies and proposals contained in the recently approved Congleton town local plan.**
- 2. the site lies outside any area proposed for development and would represent an undesirable intrusion into the agricultural and rural surrounding to the town.**
- 3. adequate supplies of land for housing to meet the requirements of the town for the next five years at least.**

13/30785 – Environmental Impact Assessment Screening Opinion for 104 Dwellings together with associated access roads, footpaths, parking and amenity planting and the provision of public open space/play areas – Approved 20-Nov-2013

13/3764C – The erection of 104 residential dwellings, including open space, together with associated works including landscaping, the formation of access, site works and other necessary works – Refused 10-Dec-2013 and dismissed at appeal for the following reason:

**The proposed development is located within Open Countryside and would have a severe adverse impact on Waggs Road and Fol Hollow due to the sub-standard nature of these two highway routes. This severe adverse impact would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policies GR1(V), GR18, PS8 and H6 of the Congleton Borough Local Plan First Review 2005 and to a core planning principle of the National Planning Policy Framework (paragraph 17), which recognises the intrinsic character and beauty of the countryside.**

### **NATIONAL & LOCAL POLICY**

### **National Policy**

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs:

- 14. Presumption in favour of sustainable development.
- 50. Wide choice of quality homes
- 56-68. Requiring good design

### **Development Plan**

The Development Plan for this area is the Congleton Local Plan, which allocates the site, under policy PS8, as open countryside.

The relevant Saved Policies are:

- PS8 Open Countryside
- GR1 New Development
- GR2 Design
- GR3 Residential Development
- GR5 Landscaping
- GR6 Amenity and Health
- GR9 Accessibility, servicing and provision of parking
- GR14 Cycling Measures
- GR15 Pedestrian Measures
- GR17 Car parking
- GR18 Traffic Generation
- GR21 Flood Prevention
- GR 22 Open Space Provision
- NR1 Trees and Woodland
- NR2 Statutory Sites (Wildlife and Nature Conservation)
- NR3 Habitats
- NR5 Habitats
- H2 Provision of New Housing Development
- H6 Residential Development in the Open countryside
- H13 Affordable Housing and Low Cost Housing

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

### **Cheshire East Local Plan Strategy – Submission Version (CELP)**

The following are considered relevant material considerations as indications of the emerging strategy:

- PG2 – Settlement Hierarchy
- PG5 - Open Countryside
- PG6 – Spatial Distribution of Development
- SC4 – Residential Mix
- SC5 – Affordable Homes
- SD1 - Sustainable Development in Cheshire East
- SD2 - Sustainable Development Principles
- SE3 – Biodiversity and Geodiversity
- SE5 – Trees, Hedgerows and Woodland

SE 1 - Design  
SE 2 - Efficient Use of Land  
SE 4 - The Landscape  
SE 5 - Trees, Hedgerows and Woodland  
SE 3 - Biodiversity and Geodiversity  
SE 13 - Flood Risk and Water Management  
SE 6 – Green Infrastructure  
IN1 – Infrastructure  
IN2 – Developer Contributions

**Supplementary Planning Documents and other relevant material:**

The EC Habitats Directive 1992  
Conservation of Habitats & Species Regulations 2010  
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System  
Interim Planning Statement Affordable Housing  
Interim Planning Statement Release of Housing Land  
Provision of Private Open Space in New Residential Developments

**CONSULTATIONS**

**CEC Flood Risk Manager:** No comments received at the time of writing the report

**CEC Environmental Health:** Object due to insufficient information regarding air quality

**CEC Ansa (Public Open Space):** No objection subject to contribution of £104,475

**CEC Education:** No objection subject to contribution of £513,063 for primary, secondary and SEN.

**Housing:** No objection subject to 31 affordable dwellings being provided

**CEC Public Rights of Way:** No objections however informative note offered to the applicant

**NHS England:** No comments received at the time of writing the report

**United Utilities:** No objection subject to drainage conditions

**Archaeology –** No objection subject to condition requiring a programme of archaeological work

**VIEWS OF THE PARISH COUNCIL**

**Congleton Town Council:** Objection

- Outside settlement boundary
- Harm to highway safety
- Flooding
- No suitable walking route to school
- Previously refused at appeal
- Contrary to the emerging Local Plan
- Effluent cleaning

## REPRESENTATIONS

Over 200 letters of objection have been received local households raising the following points:

- Road and pedestrian safety
- Harm to character/appearance of the area
- Loss of amenity
- Loss of open countryside
- Not required to deliver the local plan housing
- Previously refused appeal
- Outside of the settlement
- Not sustainable location
- Impact on the future Congleton link road
- Impact on local infrastructure and services (schools, health, roads)
- Flooding
- Air quality
- Loss of landscape
- Loss of wildlife
- Merging of settlements
- Loss of trees/hedgerows
- No one bedroom units proposed
- Loss of agricultural land

## APPRAISAL

### Principle of Development

The site lies largely in the Open Countryside as designated by the Congleton Local Plan, where policy PS8 states that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “*in accordance with the plan unless material considerations indicate otherwise*”.

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

### Housing Land Supply

On 13 December 2016 Inspector Stephen Pratt published a note which sets out his views on the further modifications needed to the Cheshire East Local Plan Strategy. This note follows 6 weeks of Examination hearings concluding on 20 October 2016.

This note confirms that his previous endorsement for the core policies on the plan still stand and that *“no new evidence or information has been presented to the examination which is sufficient to outweigh or alter my initial conclusions”*. This signals his agreement with central issues such as the ‘Duty to Cooperate’, the overall development strategy, the scale of housing and employment land, green belt policy, settlement hierarchy and distribution of development.

The Inspector goes on to support the Council’s approach to the allocation of development sites and of addressing housing supply. He commented that the Council:

*“seems to have undertaken a comprehensive assessment of housing land supply, and established a realistic and deliverable means of meeting the objectively assessed housing need and addressing previous shortfalls in provision, including assessing the deliverability and viability of the proposed site allocations”*

The Inspector went on to state that the development strategy for the main towns, villages and rural areas appeared to be *“appropriate, justified, effective, deliverable and soundly based.”* As a consequence there was no need to consider other possible development sites at this stage.

The Inspector’s recommendations on Main Modifications mean that under paragraph 216 of the Framework the emerging policies of the Cheshire East Local Plan Strategy can be attributed a greater degree of weight – as the Plan as revised is at an enhanced stage, objections are substantially resolved and policies are compliant with National advice.

The Inspector’s recommendations on housing land supply, his support for the Cheshire East approach to meeting past shortfalls (Sedgepool 8) indicate that a remedy is at hand to housing supply problems. The Council still cannot demonstrate a 5 year supply of housing at this time but it will be able to on the adoption of the Local Plan Strategy. This is highly relevant to the assessment of weight given to housing supply policies which are deemed out of date by the absence of a 5 year supply. Following the Court of Appeal decision on the Richborough case, the weight of an out of date policy is a matter for the decision maker and could be influenced by the extent of the shortfall, the action being taken to address it and the purpose of the particular policy.

Given the solution to housing supply now at hand, correspondingly more weight can be attributed to these out of date policies. In addition given the progression of emerging policies towards adoption greater weight can now be given to those emerging policies. The scale of the development may also be a factor that should be weighed in the overall planning balance as to the degree of harm experienced.

Attention is also drawn to a recent appeal decision regarding a site in Cheshire East ref APP/R0660/W/16/3156959 where the inspector gave a view on the status of the Councils Merging Local Plan

*“This plan is now at an advanced stage of preparation, with the consultation on the main modifications having started on 6 February 2017. It was indicated that apart from a minor modification to the wording of the supporting text, the Local Plan Inspector has not suggested any modifications to this policy. As*

*such, it is proposed that it would be adopted in its current format. In the light of this, and in accordance with paragraph 216 of the National Planning Policy Framework (the Framework), I consider that substantial weight can be given to this policy”*

## **SOCIAL SUSTAINABILITY**

### **Affordable Housing**

The Councils Interim Planning Statement: Affordable Housing (IPS) states in Settlements with a population of less than 3,000 that we will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified ‘windfall’ sites of 10 dwellings or more or a combined housing floor space including garages larger than 1000sqm in size.

The desired target percentage for affordable housing for all allocated sites will be a minimum of 30%, in accordance with the recommendations of the Strategic Housing Market Assessment carried out in 2013. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social rented and intermediate housing.

This is a proposed development of 104 dwellings therefore in order to meet the Council’s Policy on Affordable Housing there is a requirement for 31 dwellings to be provided as affordable dwellings with the above 65/35 split.

The affordable housing provision will be secured as part of a S106 Agreement.

### **Public Open Space**

#### Amenity Green Space

With regards to CNLP, policy RT3 requires a combined area of shared recreational open space and shared children’s play space of 35sqm per dwelling equating this development to a minimum of 3640sqm. This area should be of a size that it will form a viable attractive and functional area of play space which can be easily maintained.

The majority of the public open space is being provided in the north-western and southern boundaries of the site. Existing trees are being retained and the addition of a swale/pond to accommodate SUDS.

The amount of space provided is considered acceptable however there does appear to be slightly conflicting information in the submitted information which requires clarification.

#### Children and Young Persons Provision

Again there appears to be conflict within the various documentation supplied by the applicant. The Planning Layout drawing shows a LAP, whilst the Planning Statement refers to a LEAP.

Having calculated the existing amount of accessible Children and Young Persons Provision within 800m of the site and the existing number of houses which use it, 104 new homes will generate a need for a new NEAP play facility. The area allocated for the LAP/LEAP will be insufficient and will need to be addressed through amendments or conditions.

## Education

A development of 104 dwellings is forecast to generate 19 primary school children and 16 secondary school children and 1 Special Educational Needs (SEN) child.

The details of this forecast are contained within the table below:

Development	Waggs Road				Number of Dwellings	104								
Planning App Number	17/0195C				Primary Yield	20	less 1 SEN							
Date Prepared	16.2.2017				Secondary Yield	16								
					SEN Yield	1								
					<b>PUPIL FORECASTS based on October 2015 School Census</b>									
Primary Schools	PAN Sep 16	PAN Sep 17	NET CAP May-16	Any Known Changes	2016	2017	2018	2019	2020	Comments				
Astbury St Mary's CofE Primary School	19	19	133	133	126	124	125	123	120					
Black Firs Primary School	45	45	280	315	295	323	343	345	345					
Buglawton Primary School	30	30	206	206	195	199	207	211	217					
Daven Primary School	30	30	210	210	174	205	207	210	218					
Havannah Primary School	30	30	203	203	200	202	201	199	194					
<b>Marfields Primary School</b>	30	30	210	210	205	232	239	243	240					
Mossley CofE Primary School	60	60	420	420	410	407	405	402	408					
Saint Mary's Catholic Primary School	30	30	210	210	194	193	193	192	197					
The Quinta Primary School	50	50	330	330	337	335	336	339	333					
<b>Developments with S106 funded and pupil yield included in the forecasts</b>				31										
<b>Developments pupil yield not included in the forecasts</b>									121					
<b>Pupil Yield expected from this development</b>									19					
<b>OVERALL TOTAL</b>				324	324	2,202	2,268	2,136	2,220	2,256	2,264	2,412		
<b>OVERALL SURPLUS PLACES PROJECTIONS based on Revised NET CAP</b>								132	48	12	4	-144		
Secondary Schools	PAN Sep 16	PAN Sep 17	NET CAP May-16	Any Known Changes	<b>PUPIL FORECASTS based on October 2015 School Census</b>									
Congleton High School	200	200	900	900	949	1,028	1,069	1,079	1,102	1,100	1,108			
<b>Eaton bank</b>	180	180	900	900	549	587	640	648	666	657	670			
<b>Please Note: All figures quoted exclude any allowance for 6th Form Pupils</b>														
<b>Developments with S106 funded and pupil yield included in the forecasts</b>				12										
<b>Developments pupil yield not included in the forecasts</b>												143		
<b>Pupil Yield expected from this development</b>												16		
<b>OVERALL TOTAL</b>				380	380	1,800	1,812	1,498	1,615	1,709	1,727	1,768	1,757	1,937
<b>OVERALL SURPLUS PLACES PROJECTIONS</b>								314	197	103	85	44	55	-125

To alleviate forecast pressures, the following contributions would be required:

19 x £11,919 x 0.91 = £206,080 (primary)

16 x £17,959 x 0.91 = £261,483 (Secondary)

1 x £50,000 x 0.91 = £45,500 (SEN)

Total education contribution: £513,063

As such there is a requirement for a contribution from this development towards secondary school and the sum of £513,063 will be secured as part of a S106 Agreement.

## Health

Although no consultation response has been received from the NHS there is a medical centre in Congleton (Readesmoor Medical Centre) within 0.4 mile of the site and according to the NHS choices website this practice is currently accepting patients indicating that they have capacity.

### Location of the site

To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a "Rule of Thumb" as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

An assessment detailing the proximity of the site to the services within the tool kit has not been provided however a brief assessment has been made by the case officer. The site is located 780m to the nearest bus stop of Newcastle Road however this is not assessable by public footpath. The site is also located 1100m to the nearest bus stop on West Street. Whilst this is assessable by public footpath it is quite narrow in places and was noted as a concern by the planning inspector for the appeal that was dismissed where the inspector stated:

***"Whilst town centre facilities, services and transport links would be nearby, access to these facilities by pedestrians would in the majority of cases be along the sub-standard footways of Waggs Road. The proposed road junction would fail to provide safe highway conditions"***

As a result it is clear that the site is outside of those distances as recommended in the checklist and would likely result in future occupants relying on motor vehicles in which to reach local services and amenities. However it is noted that the planning inspector considered that ***"facilities, services and transport links would be nearby"***, suggesting that he considered the proximity of the site to be within acceptable levels.

Whilst the Council does not necessarily agree with this view given the distance of the site to services, the physical location of the site remains unchanged since the appeal decision, therefore it would be difficult to argue this point based on the comments of the Inspector.

Nevertheless locational sustainability is not the determinative factor in its own right but does weigh against the proposal in the overall planning balance.

## ENVIRONMENTAL SUSTAINABILITY

### Residential Amenity

The main residential properties affected by this development are properties to the east of the site on Waggs Road (124-102) & 17-7 Meadow Avenue, property to the south New Bank Farm and properties to the north 139-135 Waggs Road.

The nearest plot (plot 1) would be sited 38m to the front elevation of the nearest property to the front (No.139 Waggs Road). These distances are sufficient to prevent significant harm to living conditions.

The plots closest to 124-102 Waggs Road would be sited between 32-45m to main face rear elevations. Although plots 8,9 would be sited 13m to the rear boundary is No.124 Waggs Road which is considered sufficient to prevent significant harm through overlooking of the garden area. Whilst plot 53 would be sited 5m to the rear boundary of No.124 Waggs Road, use of planning conditions requiring side facing windows to be fitted with obscure glazing would prevent harm through overlooking/loss of privacy.

Plots 65-69 would be sited 13m to the side elevation of 17 Meadow Avenue. This distance would prevent significant harm to living conditions through overlooking. These plots would also be sited 10 to the boundary shared with No.17 Meadow Avenue which is also considered sufficient to prevent significant harm through overlooking of the garden areas.

Plots 73-85 would be sited between 38-44m between main face elevations which is considered sufficient to prevent significant harm to living conditions.

Plots 12-15 would be sited 24m to nearest buildings of New Bank Farm which is sufficient to prevent significant harm to living conditions.

Some of the internal separation distances are slightly shy of the recommended spacing distances, however these are only minor breaches which would be outweighed by the benefits of providing new housing and would also be a marketing consideration for future occupants.

It is noted that the majority of the proposed garden areas as in excess of the recommended minimum garden area of 65sqm. Whilst a limited number of plots are noted as being shy slightly of the recommended garden area, the mixed garden size reflects the mix of property sizes and does provide some level of private amenity space in which to undertake basic tasks such as hanging washing out etc and public open space is also provided on the site to off-set this shortfall.

### **Air Quality**

Insufficient information has been submitted with the application, in order to adequately assess the impact of the proposed development having regard to Air Quality.

However as part of the refused application an Air Quality Assessment was provided and a number of conditions were requested to mitigate the impact of the proposal which would be added again should the application be approved.

### **Contaminated Land**

As the application is for new residential properties which are a sensitive end use and could be affected by any contamination present a contaminated land condition will be attached to any approval.

### **Public Rights of Way**

On consultation of the Definitive Map, the legal record of Public Rights of Way, the proposed development appears to be adjacent to a Public Right of Way, namely Footpath No. 6 in the parish of Congleton.

However it appears unlikely, that the proposal would affect the Public Right of Way, although the PROW have requested an informative be added to the decision notice should permission be approved.

## Highways

### Sustainable access

Although the site is located a considerable distance from the nearest bus services, the town centre and associated services and amenities are not too distant a walk from the site and on balance with suitable footway provision can be considered sustainable.

### Safe and suitable access

The main highway concerns as noted in the Highways consultation response of the previous application 13/3764C were; access visibility, footway provision, and sub-standard carriageway widths.

The access visibility related to that of the proposed site access onto Fol Hollow. This has been improved on the previous application and now reflects the design speed of Fol Hollow. There are concerns of the knock on effect of this which has been a reduction of access visibility for properties across the road from the site access. The reduction in visibility to the property has not been provided by the applicant but an approximate measurement is 2m x 20m that is 50% of the visibility requirement at the access point.

The existing footway provision from the site to Congleton town centre is sub-standard on both sides of Waggs Road. It has been proposed to improve the footway on northern side by providing a 2m footway, approximately 300m east of the site for a distance of 145m.

The carriageway width, north of the site where the footway is being widened, has also been widened from around 4.5m to 5m for an approximate 30m stretch. Whilst this widening of the carriageway is welcomed, Waggs Rd is unsuitable to accommodate the additional traffic that would be generated from this development. While a 5m carriageway width is adequate to allow for a car and an HGV to pass each other, the practical width of the carriageway is reduced by the presence of a wall which sits alongside the eastern side of the carriageway edge. This reduces the carriageway width to a point where an HGV and car cannot safely pass each other.

Continuing north, the carriageway width reduces to 4.5m, with the wall continuing along the eastern edge of the carriageway. A car and HGV cannot pass each other at this point and although 2 cars could pass each other, they could only do so with extreme care and at very low speeds.

There is an approximate 100m length of carriageway which is not capable of accommodating opposing car and HGV movements, and an approximate 20m length of carriageway that is unsuitable for opposing car movements. Opposing vehicles would have no option but to either reverse along Waggs Road or mount the footway.

North of the proposed footway improvements on Waggs Rd the carriageway width remains narrow at around 4.2m to 4.5m and in addition on-street parking occurs, reducing the practical width of the carriageway.

As mentioned in the Highways consultation response of the previous application, Fol Hollow is no more than a single track in places with a very poor alignment and sharp bends and forward visibility is

limited. Fol Hollow at its narrowest point at bends, the carriageway width measures between 5.3m to 4.8m. There are no pedestrian footways and for much of its length has no street lighting and it also has a derestricted speed limit. Fol Hollow will also be the route used to access Congleton High School and the applicant has not assessed Fol Hollow in this application.

## Conclusion

It is noted that as part of the dismissed appeal the inspector considered the access routes leading to local services/amenities were inadequate quoting:

*“Whilst town centre facilities, services and transport links would be nearby, access to these facilities by pedestrians would in the majority of cases be along the sub-standard footways of Waggs Road. The proposed road junction would fail to provide safe highway conditions. A package of works to the highway sufficient to appropriately limit these impacts cannot be assured and in their absence, the detrimental effect of the development on the safety of highway users would I consider be severe.”*

It is noted that the current application has attempted to address these concerns by proposing to widen a section of the footway on Waggs Road to the north-east of the site. However the visibility of an existing access opposite the proposed site access has been affected by the revised access plans and the visibility has been reduced to an unacceptable distance, rendering the access unsafe and unsuitable for the existing residents.

The reduced carriageway widths and on-street parking on Waggs Road and Fol Hollow are existing issues. However the inadequate infrastructure that provides access to the site is considered not to be of a satisfactory standard to support further major development proposals whose generated traffic will have a direct impact on both Waggs Road and Fol Hollow.

As a result it is not considered that the previous highway safety concerns have been adequately addressed.

## **Landscape**

This is a full planning application for the development of a maximum of 104 residential dwellings. The application site is agricultural land and is located to the south of Congleton, along the southern part of Waggs Road. There are a number of existing residential dwellings along both sides of Waggs Road, some of these dwellings, along with a number along Meadow Avenue follow the northern boundary of the application site; a number of these dwellings also extend along Stony Lane, part of which forms the eastern boundary of the application site. Stony Lane (FP6), which follows a route from Waggs Road to the north, is on a roughly north-south alignment, meeting Lambert's Lane at a distance to the south of the application site. The western part of the application site's northern boundary extends up to Waggs Road and is characterised by a hedgerow boundary and the curved alignment of the road. The existing access to New Bank Farm forms the extent of the application site along this boundary.

The Congleton Borough Local Plan First Review (01/05) identifies that the application site is located within the Open Countryside (PS8), but that it has no landscape designations. The application site is currently agricultural land with native hedgerows along the northern boundary and a hedge and a number of trees along the southern boundary in proximity to New Bank Farm, and the remainder of the southern boundary being open. There is a hedgerow that divides the site along a north-south

alignment and there are a number of mature trees located near to the proposed access from Waggs Road.

The submitted Planning Statement, Location Plan (Drwg LP01) and the submitted Planning Layout drawing (BHWL223/01) show two large irregular extensions along the southern boundary. However Fig 1 of the LVIA identifies that the southern boundary as a continuous line running in an approximately east – west alignment, linking Stony Lane to the east with the New Bank Farm track to the west, incorporating a small dog leg section of hedgerow along this route. Figure 12 of the submitted LVIA (Landscape Framework Plan) identifies that tree planting in these two areas as offsite planting. The two submitted Planting Plans (LDS372-01/LDS372-02) show both areas as being outside the red line boundary, neither plan shows any tree planting in these areas.

The submitted LVIA indicates that the landscape quality is ordinary, that the landscape value of the site is moderate and that it is likely to have a moderate-substantial effect at year 1, reducing to a moderate effect by year 15, and that on the study area the landscape effect at year 1 will be slight-moderate, reducing to slight at year 15. While the LVIA makes a number of references to 'the study area' it is not clearly defined – apart from in para 6.4 which identifies it as the agricultural land and settlement associated with the southern edge of Congleton. A number of plans do have a dotted red circle – it is assumed that this is the study areas referred to. The visual assessment identifies 9 receptors, residential, pedestrian and vehicular, and offers a sensitivity for each (Table 2).

In terms of the landscape assessment, the Councils Landscape Officer broadly agrees with the assessment of quality and value, as well as the moderate substantial effect at year 1. Whist the Landscape Officer considers that the effect may reduce, this will be dependant on mitigation. Mitigation will be effective along the western part of the development along the boundary with Fol Follow/Waggs Road, as shown on Planting Plan I (LDS372-01), however the mitigation indicated along the southern boundary on the Landscape Framework Plan Fig 12 (LVIA) appears to be outside the red line boundary and there appears to be no mitigation or boundary planting along the boundary of plots 89-104, apart from a badger proof fence. The Landscape Officer has concerns regarding this part of the proposed development and feels that clarification is needed. However he would broadly agree with the study area and wider area assessments.

In terms of the visual assessment, while the landscape officers agrees with the sensitivity of the receptors, he does think that the visual effects will be more adverse for a number of receptors – notably 1,2, 3, 7. The landscape officer would also note that although viewpoint 3 has been taken from FP6, that there does seem to be some confusion over the exact route of FP6, some of which follows Stony Lane and some of which appear to follow the route of a slightly sunken ditch , before returning to Stony lane again. While views from some of the sunken parts of this route are difficult, this is not the case for the whole of the route, and the visual effects will be more adverse along part this route. The resolution over mitigation along the southern boundary, notably to the south of plots 89-104 will also determine the visual impact for users of Stony lane, further to the south from Viewpoint 3.

It was noted by the inspector at the previous appeal for this site (APP/R0660/A/14/22214018) that

*“The appeal site lies within an area know as Priestly Fields that has survived largely unchanged for many centuries and forms part of the rural setting of Congleton. The construction of 104 dwellings on the site would fundamentally alter its appearance resulting in the loss of its rural and agricultural character. Protection of the natural and historic environment is part of the environmental role of the planning system as set out in paragraph 7 of the Framework. In simple terms the proposal would*

*conflict with this objective. That said, whilst suburban development would extend further along the northern end of Stony Lane, the proposed housing would be seen here in the context of existing housing in Meadow Avenue. From further south, down the slope and along Lambert's Lane the appeal site is largely concealed by the ridge of the hill. Gardens and planting would form the southern boundary of the site and where visible at all only glimpses of the houses would be seen. From Fol Hollow the enclosing banks, rising ground and vegetation would largely screen the buildings none of which would sit on the road frontage. The visual impact of the development on the wider landscape character would therefore be limited and the weight I give to harm in this respect is therefore modest.”(31)*

The landscape officer would agree with the Inspector's comments that the proposed development would result in the loss of the site's rural and agricultural character, and that this would be seen in the context of existing dwellings along Waggs Road and Meadow Avenue, and also that in terms of the visual effects, the proposals would also be seen in the context of existing development, largely screened along Waggs Road/Fol Hollow by existing residential dwellings and along the western part of the application site by the rising ground and vegetation.

Consequently the landscape officer does not feel that the proposed development would result in long terms substantially adverse effects. The main concern is the proposed mitigation along the southern boundary, in the two areas identified as being offsite. Provision of offsite planting in these areas would reduce the landscape and visual effects of the proposed development in the longer term.

### **Trees**

The original application (13/3764C) on this site was supported by an Arboricultural Impact Assessment (AIA) dated July 2013 by Ascerta Consulting Ltd'. There appears to be an absence of such a document as part of this submission with the only Arboricultural detail supplied relating to trees associated with Waggs Road.

The AIA supporting the proposed highway improvements dated June 2016 identifies the removal and loss of two individual trees four groups and part of three other groups; it is also noted that in the absence of suitable controls, the proposed works may well have an indirect impact on a number of trees adjacent to the working area. The trees identified for removal have been categorised as moderate and low value specimens (B –C). The Councils Arborist concurs with these designations; implementation of a Tree Preservation Order individually or collectively is not considered appropriate.

The proposed development layout in respect of the two TPO'd trees broadly corresponds with the original application 13/3764C, accordingly the comments made previously and detailed below are still applicable.

The new access including the graded banking has been positioned to respect the Root Protection Area (RPA) of T1, allowing the access road to be constructed to an adoptable standard. The proposed driveway which serves Plots 1 and 2 extends through the RPA's of both T1 and T2. Highways have advised that as the driveway would be private, as we do not normally adopt such cul-de-sacs serving 5 or less properties, and providing we are satisfied that the junction with the spine road is safe, and the construction of the access is not likely to be such that any inherent weakness would migrate to affect the highway, therefore no concerns over the form of construction. It is accepted that ground levels and conditions are considered suitable to a “no dig” construction technique allowing implementation as presented whilst retaining both trees. This type of construction will require

additional details in the form of a suitable Construction Method Statement, but can be address by conditions if highways are still accepting of a non adoptable construction standard.

The proposed development in terms of build footprints respects the RPA's associated with both T1 and T2. A limited amount of selective pruning is anticipated but this will not detract from their natural shape and form or contribution to the immediate area or the wider landscape. It appears T1 will be located within an area of POS with T2 forming part of a private garden. Whilst it is not anticipated that there will be any significant issues post development in terms of light and nuisance, the formal protection afforded to the trees enables their presence to be defended.

In order to gain access to the site and facilitate the designed road layout a number of short sections of hedgerow require removal from, no details have been provided in terms of informing if they are considered to be important in respect of the 1997 Hedgerow Regulation. Where those hedges which form the boundary with both an existing dwelling house and a constructed property should the development proceed regulations do not or would not apply.

The southern boundary of the site supports a number of individual and groups of trees located both on site and on adjacent land. No direct impact in terms of construction is anticipated with a reasonable offset achieved in terms of RPA's utilisable garden space and rear elevations.

Should the application be approved the Councils Arborist recommends conditions regarding no dig construction for the driveway near T1 and T2, tree protection Measures and tree pruning/felling specification.

### **Design**

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

*“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”*

This application seeks full planning permission for 104 dwellings, therefore full details of layout and design form part of the application.

Access to the site would be taken from Waggs Road adjacent to number 124; it would then branch off to the east and west with narrower, shared surface mews streets and spaces. The layout contains a series of linked landscape squares and spaces to punctuate the route and provide focal points and destinations, including the Local Area of Play. The majority of the trees and hedgerows will be retained within the site.

The dwellings would be of varying designs with a mixture of finishes including brick and render. They would all be two storey, many with gable features to the front. The finishes would vary from a combination of brick and render with timber detailing, solely render and solely brick finish all with grey roof tiles, which it is considered would provide a varied and interesting streetscene.

A mixture of detached, semi-detached and mews style properties are proposed and these would be distributed throughout the site, in order to provide a varied appearance to the street scene. It is considered that these would be in keeping with the character of the surrounding development and would create an attractive form of built environment.

The density of development is 28.65 dwellings per hectare, which is a similar density to the nearby Marsh Farm development. The density in the local area varies from some properties set in large plots on Waggs Road, to a mixture of large and small plots on Meadow Avenue and smaller plots on Fields Crescent. It is considered that whilst the development would not contain large plots such as those on Waggs Road, it would reflect the urban grain of the wider area.

The position of the proposed habitat protection areas softens the edge to the open countryside, and as shown on the layout, would be well overlooked by some of the proposed units.

On this basis, it is considered that an appropriate design has been submitted, which will sit comfortably alongside the mix of existing development within the area. The proposal is therefore considered to be in compliance with Policy GR2 of the adopted local plan.

### **Ecology**

#### Habitats

The grassland habitats on site are unlikely to qualify as a Local Wildlife Site. The Councils Ecologist advises that the habitats on site are of low value and do not present a significant constraint upon development. The development proposals however may still result in an overall loss of biodiversity. It is therefore recommended the applicant undertakes and submits an assessment of the residual ecological impacts of the proposed development using the Defra 'metric' methodology.

An assessment of this type would both quantify the residual ecological impacts of the development and calculate in 'units' the level of financial contribution which would be required to 'offset' the impacts of the development to enable the total ecological impacts of the development to be fully addressed in a robust and objective manner. Any commuted sum provided would be used to fund habitat creation/enhancement works of site.

#### Great Crested Newts

The ponds located in close proximity to the proposed development are not reasonable likely to support this protected species, therefore no further action in respect of this species is required.

#### Common Toad

Common toad a UK Biodiversity Action Plan priority species has been recorded at Astbury Mere. The Councils Ecologist advises that the proposed development is unlikely to have a significant impact on the local conservation status of this species.

#### Bats

A tree on site has been identified as having bat roosting potential. The submitted illustrative layout shows this tree as being retained. If planning consent is granted a condition would be required to retention this tree.

#### Badgers

A badger sett has been recorded immediately adjacent to the proposed development. The previously submitted badger survey recommends the provision of a 30m undeveloped buffer around the sett. This recommendation has been incorporated into the indicative layout which shows open space provision in the vicinity of the sett. I advise that the proposed development will result in the loss of some foraging habitat utilised by badgers. This is however not likely to be critical to the local badger population.

The status of badgers on a site can change. Therefore in the event that planning permission is granted it is recommended that a condition be attached requiring an updated badger survey and mitigation strategy to be submitted prior to the commencement of development.

### Breeding Birds

A number of Biodiversity Action Plan priority bird species have been recorded within 1km of the application site. The previously submitted ecological assessment states that these species are likely to occur on the application site and utilise the hedgerows and scattered trees present. Much of the hedgerows and trees on site are retained as part of the submitted layout and a new native species hedgerow is proposed which would at least partially mitigate the impacts of the development upon breeding birds. If planning permission is granted it is recommended that a condition be attached regarding a detailed birds survey and incorporation of features for breeding birds.

### **Flood Risk**

The application site falls within a Flood Zone 1 and is over 1 hectare in size therefore a Flood Risk Assessment (FRA) is required.

Campbell Reith were appointed to prepare a Flood Risk Statement and Preliminary Drainage Appraisal to assess the risk of flooding both to and from the site and to support the forthcoming Planning Application. A Preliminary SW Drainage Strategy has been formulated for the Site which demonstrates that run-off from the Site can be managed in a sustainable manner and post-development discharge rates can be controlled so as not to exceed existing run-off rates agreed with the Environment Agency and Lead Local Flood Authority (LLFA).

United Utilities have considered the report and raised no objections subject to the imposition of appropriate planning conditions.

The Environment Agency have not provided any comments however they did comment on the previous application and offered no objection to the proposal, but stated that the discharge of surface water should, wherever practicable, be by Sustainable Drainage Systems (Suds). Suds, in the form of grassy swales, detention ponds, soakaways, permeable paving etc can help to reduce the discharge rate. Given that the site location, number and positioning of dwellings remains as per the previous application that these comments remain valid.

At the time of writing the report no comments have been received from the Councils Flood Risk Team, therefore these will be provided either in the update report or at the committee meeting itself.

Subject to the response from the Flood Risk Team it would appear that any flood risk/drainage issues, would be suitably addressed by planning conditions.

### **Agricultural Land Quality**

It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. However, the National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

In this instance, an Agricultural Land Use and Land Classification Report has been submitted. This report found the site is not graded in the 1 to 5 category, excellent to very poor and as such is not classed as being the 'best and most versatile agricultural land' defined in the NPPF.

Thus, whilst the proposal would result in the loss of a small quantity of Grade 3 agricultural land, the loss would not be 'significant' and would not outweigh the benefits that would come from delivering housing.

### **ECONOMIC SUSTAINABILITY**

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to Congleton including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

### **CIL Regulations**

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

As explained within the main report, POS and play equipment is a requirement of the Local Plan Policy RT.3. It is necessary to secure these works and a scheme of management for the open space and play equipment. This contribution is directly related to the development and is fair and reasonable.

The development would result in increased demand for school places in the area and there is very limited spare capacity. In order to increase capacity of the schools which would support the proposed development, a contribution towards secondary school education is required. This is considered to be necessary and fair and reasonable in relation to the development.

The proposal would result in a requirement for the provision of 31 affordable units which would be split on a social rented/intermediate basis. This is considered to be necessary and fair and reasonable in relation to the development.

On this basis any S106 requirements (if approved or subject to appeal) would be compliant with the CIL Regulations 2010.

### **PLANNING BALANCE**

The proposed development would be contrary to Policy PS8 & H6 and the development would result in a loss of open countryside. However, Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development.

It is therefore necessary to consider whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

The development would provide benefits in terms of affordable housing provision, delivery of housing, POS, a play area and economic benefits through the usual economic benefits during construction and through the spending of future occupiers.

The development would have a neutral impact upon education, protected species/ecology, flooding, living conditions, landscape, trees, design and contaminated land.

The adverse impacts of the development would be the loss of open countryside and the severe impacts to highway safety.

Whilst locational sustainability is not a determining factor in its own right this is considered to weigh against the proposal in the overall planning balance. Given the distance of the site to local services/amenities future occupants would have no option but to utilise the substandard access routes in order to reach these services/amenities. Whilst the Council actively encourage walking rather than use of motor vehicle, it does not encourage the use of unsafe pedestrian routes. The previous concerns over the dismissed appeal have not therefore been resolved.

As a result the development is clearly contrary to open countryside policies yet as it stands these are considered out of date. So the presumption in favour of sustainable development applies. However, with reference to the Richborough Court of Appeal weight can be given to those policies.

There is now a solution to the housing supply in hand through the forthcoming adoption of the Local Plan. As a consequence of the Inspectors most recent comments in December increased weight can be afforded to these ‘out of date’ policies. In addition given the progression of emerging policies towards adoption it is considered that greater weight can now be given to those emerging policies. A further factor that weighs against the scheme is the scale and location of the development which extends further away from the village settlement.

Therefore taking a balance of the overall benefits, the current policy position and the scale of harm it is considered that the presumption in favour is outweighed in this case and a recommendation of refusal is made.

### **RECOMMENDATION:**

**REFUSE**

- 1) The proposed residential development is unsustainable because it is located within the Open Countryside contrary to Policies PS8 (Open Countryside), GR1 (New Development), GR2 (Design), H6 (Residential Development in the Open Countryside and the Green Belt) of the Congleton Local Plan, Policies PG5 (Open Countryside) and SD1 (Sustainable Development in Cheshire East) of the emerging Cheshire East Local Plan Strategy and the principles of the National Planning Policy Framework, which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it creates harm to interests of acknowledged importance. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.
- 2) The visibility of an existing access opposite the proposed site access has been affected by the revised access plans and the visibility has been reduced to an unacceptable distance, rendering the access unsafe and unsuitable for the existing residents. The reduced carriageway widths and on-street parking on Waggs Road and Fol Hollow are existing issues. However the inadequate infrastructure that provides access to the site is considered not to be of a satisfactory standard to support further major development proposals whose generated traffic will have a direct impact on both Waggs Road and Fol Hollow. As a result the development would have a severe adverse impact on Waggs Road and Fol Hollow, due to the sub-standard nature of these two highway routes. This severe adverse impact would significantly and demonstrably outweigh the benefits of the scheme namely housing land supply. The development is therefore contrary to Policies GR1 (New Development), GR2 (Design), GR3, GR7, GR9 (New Development), GR10 and GR18 (Traffic Generation) of the adopted Congleton Borough Local Plan, Policies SD1 (Sustainable Development in Cheshire East), SD2 (Sustainable Development Principles), SC3 (Health and Well-being), C01 (Sustainable Travel and Transport) of the Emerging Cheshire East Local Plan and the requirements of the NPPF

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation) in consultation with the Chair (or in her absence the Vice Chair) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

Should the application be subject to an appeal, the following Heads of Terms should be secured as part of any S106 Agreement:

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:
  - The numbers, type, tenure and location on the site of the affordable housing provision
  - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
  - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
  - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 2. Provision of Public Open Space and LAP.
- 3. Primary and Secondary School and SEN Education Contribution of £513,063



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## CHESHIRE EAST COUNCIL

## STRATEGIC PLANNING BOARD

**Date:** 19th April 2017  
**Report of:** David Malcolm – Head of Planning Regulation  
**Title:** Update following the resolution to approve application 13/3449C – Outline application for residential development (approximately 450 dwellings)  
**Site:** Glebe Farm, Booth Lane, Middlewich, CW10 0RP

**1.0 Purpose of Report**

- 1.1 Planning application 13/3449C was referred to Strategic Planning Board on 2<sup>nd</sup> April 2014. This report is to consider an update to the agreed Heads of Terms for the S106 Agreement.
- 1.2 The minutes from the meeting are as follows:

*RESOLVED*

*That for the reasons set out in the report and in the written update to Board the application be approved subject to the completion of a Section 106 Agreement securing the following:-*

1. *A contribution towards playing pitch improvements at Sutton Lane £220,000 (Sum to be paid prior to the commencement of development)*
2. *A contribution towards Middlewich Eastern Bypass of £4,780,000. If the MEB is not delivered the sum will be spent on the following highway/sustainability measures: Bus Service/Facility Improvements; Town Bridge – Signal Junction Improvements; Cycle Lanes -Towpath: Middlewich to Glebe Farm; Cycle Lanes - Carriageway Modification: Middlewich to Glebe Farm; and Cycle Lanes -Towpath: Glebe Farm to Elworth. The sum is to be submitted prior to the commencement of development.*
3. *A scheme for the provision of 10% affordable housing all to be affordable rent. The scheme shall include:*
  - *The numbers, type and location on the site of the affordable housing provision*
  - *The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing*
  - *The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved*
  - *The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and*

*- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.*

*4. Provision of Public Open Space, a NEAP and LEAP to be maintained by a private management company*

*And subject to the following conditions:-*

- 1. Standard Outline*
- 2. Submission of Reserved Matters*
- 3. Time limit for submission of reserved matters*
- 4. Approved Plans*
- 5. Hours of construction limited to 08:00 to 18:00 Monday to Friday, 09:00 – 14:00 Saturday and not at all on Sundays and Bank Holidays*
- 6. Pile driving limited to 08:30 to 17:30 Monday to Friday, 09:00 – 13:00 Saturday and not at all on Sundays*
- 7. Prior to the commencement of development a Phase I Contaminated Land Assessment shall be submitted to the LPA for approval in writing.*
- 8. Details of external lighting to be submitted and approved*
- 9. Dust control measures to be submitted and approved*
- 10. Prior to the development commencing, an Environmental Management Plan shall be submitted and agreed by the planning authority.*
- 11. A scheme for the acoustic enclosure of any fans, compressors or other equipment for the proposed retail store*
- 12. A detailed scheme of glazing, ventilation mitigation measures and acoustic screening fences, should therefore be prepared and submitted at the Reserved Matters application stage*
- 13. Travel Plan provision*
- 14. Electric vehicle Infrastructure*
- 15. The submission of a ground dissolution/brine extraction related risk assessment and proposals regarding suitable foundations designed to overcome the potential effects of brine pumping related subsidence.*
- 16. A scheme to limit the surface water run-off from the site*
- 17. A scheme to manage the risk of flooding from overland flow*
- 18. The provision of a buffer to the water course*
- 19. Provision of bird and bat boxes*
- 20. Works should commence outside the bird breeding season*
- 21. Access point to Booth Lane to be provided in accordance with the approved details prior to first occupation. No access for construction traffic from Warmingham Lane.*
- 22. No development shall take place within the area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.*
- 23. Reserved matters application to include details of existing and proposed levels*
- 24. Tree protection*

25. *Tree retention*

26. *Arboricultural Method Statement to be submitted at the Reserved Matters stage*

27. *If the Reserved Matters application results in the loss of any ponds replacements should be provided.*

*Informative:*

1. *The applicant is advised that they have a duty to adhere to the regulations of Part IIA of the Environmental Protection Act 1990, the National Planning Policy Framework 2012 and the current Building Control Regulations with regards to contaminated land. If any unforeseen contamination is encountered during the development, the Local Planning Authority (LPA) should be informed immediately. Any investigation / remedial / protective works carried out in relation to this application shall be carried out to agreed timescales and approved by the LPA in writing. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.*

*In the event of any changes being needed to the wording of the Board's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Interim Planning and Place Shaping Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Board's decision.*

*Should this application be the subject of an appeal, authority be delegated to the Interim Planning and Place Shaping Manager in consultation with the Chairman of the Strategic Planning Board to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.*

- 1.3 Since the SPB resolution, above, the S106 negotiations have stalled because of the way in which the Middlewich Eastern Bypass (MEB) is intended to be delivered. As members may be aware, it has changed from being a developer-led infrastructure scheme to one which the Council is now leading on. Revised Heads of Terms are required in response to these delivery arrangements.

## **2.0 Decision Required**

- 2.1 To amend the second schedule of the Heads of Terms of the S106 so that the proposed level of developer contribution (£4.78m) towards the Middlewich Eastern Bypass (or alternative transport measures should the MEB not be delivered) shall be paid to the Council in 4 equal

instalments - on the first occupation of 20%, 40%, 60% and 80% of the dwellings approved on the site at the Reserved Matters stage.

## **3.0 Background**

- 3.1 The site of the proposed development extends to 15.3 ha and is located to the south of Middlewich. Although the site is within open countryside as defined in the Congleton Borough Local Plan First Review, however it is allocated for residential development in the Local Plan Strategy, forming the majority of Strategic Site CS20 Glebe Farm, Middlewich. To the north is residential development fronting Kingswood Crescent, Shilton Close, Northwood Avenue and Inglewood Avenue. To the north is agricultural land. A former sports ground is included within the site. To the east of the site is Booth Lane with the Trent and Mersey Canal beyond, to the west of the site is Warmingham Lane.
- 3.2 The majority of the site is currently in agricultural use and there are a number of trees and hedgerow to the boundaries of the site. The site also includes a number of ponds.

## **4 Proposed Development**

- 4.1 The outline planning permission that the Council resolved to approve in 2014 is for up to 450 dwellings with an average density of 35 dwellings per hectare. All detailed matters are reserved except for access.
- 4.2 There would be two access points to serve the site; one via Warmingham Lane and the second access via Booth Lane.
- 4.3 The indicative plan shows that the site would include the provision of a linear area of public open space and a Neighbourhood Equipped Area for Play (NEAP).
- 4.4 The development would consist of a mix of house types with the maximum height being three stories in height and mainly ranging from 2-4 bedroom units.
- 4.5 The indicative plan shows that the development will include a small retail unit.

## **5 Officer Comment**

- 5.1 Although 3 years have passed since the application was first determined at Strategic Planning Board, the principle of development is still considered to be acceptable. The site is allocated as a Strategic Site within the Cheshire East Local Plan Strategy (LPS) under Policy CS 20. The LPS is now at an advanced stage of preparation. The Council has recently consulted on draft Main Modifications. Given that the Local Plan Inspector is content with the allocation of the site, this can now be given significant planning weight. There have been some

changes to the wording of Policy CS20 since 2014 with the main change being an increase in the number of dwellings from 450 to 525 (all other changes are relatively minor). As a result the principle of this development is still considered to be acceptable, in fact arguably more acceptable.

- 5.2 The MEB is a vital piece of infrastructure, central to the LPS's development strategy for the town, that will unlock the Glebe Farm site and other allocated sites. The Glebe Farm development, alongside other development sites, would help to secure funding for the MEB.
- 5.3 At the moment it is not possible to complete the S106 as it stands and secure the required contributions for the MEB. The MEB is a major highway scheme which is listed within the Council's Infrastructure Delivery Plan.
- 5.4 The proposed staged payment of the MEB contribution would still fully comply with Policy CS20 which states that the development will secure *'financial contributions to the delivery of the Middlewich Eastern Bypass'* whilst the justification for the policy states that *'Glebe Farm presents an opportunity to deliver a high quality, sustainable residential development whilst supporting the key infrastructure through financial contributions to the Middlewich eastern Link Road'*.
- 5.5 The proposal to stagger the payment of the MEB contribution has been considered by Head of Strategic Infrastructure (Development Management Highways) and the Infrastructure Delivery Manager who both support this arrangement.

## **6 Conclusion**

- 6.1 On the basis of the above, the changes to the S106 Heads of Terms in relation to the MEB contribution as set out below are considered to be acceptable;

*A contribution towards Middlewich Eastern Bypass of £4,780,000. If the MEB is not delivered the sum will be spent on the following highway/sustainability measures: Bus Service/Facility Improvements; Town Bridge – Signal Junction Improvements; Cycle Lanes -Towpath: Middlewich to Glebe Farm; Cycle Lanes -Carriageway Modification: Middlewich to Glebe Farm; and Cycle Lanes -Towpath: Glebe Farm to Elworth. The sum is to be paid in 4 equal stages on the first occupation of 20%, 40%, 60% and 80% of the dwellings approved on the site at the Reserved Matters stage.*

- 6.2 All other Heads of Terms and conditions would remain unchanged.

## **7 Recommendation**

- 7.1 To amend the second schedule of the Heads of Terms of the S106 so that the proposed level of developer contribution (£4.78m) towards the Middlewich Eastern Bypass (or alternative transport measures should the MEB not be delivered) shall be paid to the Council in 4 equal instalments - on the first occupation of 20%, 40%, 60% and 80% of the dwellings approved on the site at the Reserved Matters stage.

**8 Financial Implications**

- 8.1 There are no financial implications.

**9 Legal Implications**

- 9.1 The Borough Solicitor has been consulted on the proposals and raised no objections

**10 Risk Assessment**

- 10.1 There are no risks associated with this decision.

**11 Reasons for Recommendation**

- 11.1 To agree to the S106 Agreement and issue a decision notice.

***For further information:***

*Portfolio Holder: Councillor Ainsley Arnold*  
*Officer: Daniel Evans – Principal Planning Officer*  
*Tel No: 01270 686751*  
*Email: daniel.evans@cheshireeast.gov.uk*

***Background Documents:***

- *Application 13/3449C*