

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 4th March 2014

Report of: Director of Economic Growth and Prosperity

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

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

1.0 Introduction

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

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

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

2.0 Recommendations

Cabinet is requested to:

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

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

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

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

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

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

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

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

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

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

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

3.0 Reason For Recommendations

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

Economic Benefits

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

Environmental Benefits

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

¹ CBRE Economic Masterplan and Delivery Plan, page 71

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

Social Benefits

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

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

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

4.0 Background to the Report

Location and description of the Order land

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

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

Development Agreement

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

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

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

Need for redevelopment

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

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

⁴ AMT Town Benchmarking Report 2013

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

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

Scheme

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

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

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

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

Cinema, housing and restaurants

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

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

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

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

Town Square

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

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

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

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

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

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

Retail Street/Department Store

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

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

Multi Storey Car Park

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

Public Realm Improvements

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

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

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

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

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

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

5.0 CPO Powers

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

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

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

6.0 Wards Affected

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

7.0 Local Ward Members

Councillor Janet Jackson and Councillor Ken Edwards

8.0 Policy Implications

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

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

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

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

8.2.2 *Cheshire East Corporate Plan 2011-2013*

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

8.2.3 Cheshire East Economic Development Strategy

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

9.0 Financial Implications

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

10.0 Legal Implications (Authorised by the Borough Solicitor)

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

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

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

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

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

11.0 Risk Management

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

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

12.0 Conclusion

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

13.0 Access to Information

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

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Appendix 1

Plan to be attached to the Compulsory Purchase Order

Appendix 2

Draft Statements of Reasons