

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 30th June 2015

Report of: Executive Director for Economic Growth and Prosperity

Subject/Title: Macclesfield Town Centre Regeneration

Portfolio Holder: Cllr Don Stockton, Regeneration and Assets

1.0 Report Summary

- 1.1. Macclesfield Town Centre is the heart of the Borough's second largest town and the importance of ensuring its vitality and attractiveness is embedded in many key corporate policies.
- 1.3 Proposals for the regeneration of the town centre have reached a watershed moment. The longstanding Development Agreement with Wilson Bowden, inherited from Macclesfield Borough Council, is now terminated. This means the Council can now proactively engage with other potential developers to secure a fresh leisure led scheme to enhance the existing town centre offer.
- 1.4 Informal expressions of interest have already been received from the market. After consideration of the various potential delivery mechanisms summarised in the Options Appraisal at **Appendix A**, officers have identified that the best way forward to facilitate rapid delivery is to promote two alternative sites for sale, to enable consideration of all options the market can deliver.



- 1.5 Early feedback from the recently established Macclesfield Town Centre Vision Stakeholder Panel, set up to enable local stakeholders to input into plans for the town centre, indicates high levels of support for the principle of securing a sympathetic leisure led development. In terms of the location of such development, feedback from the Panel clearly supports the option to market 2 potential sites, Duke Street Car Park and Churchill Way Car Park,

to enable developers to put forward alternative scheme for either, so maximising the potential to find a scheme which fits with the wider Macclesfield Town Centre Vision.



1.6 Following the announcement by the Leader at April Cabinet that the Council would consider offering free car parking within the town centre boundary, the Stakeholder Panel has already begun to review the boundary to inform how a new car parking strategy could be developed and to define the area of focus for regeneration efforts. Early indications show support for some degree of controlled free parking within the town centre boundary with restrictions to prevent free spaces being taken up by all day commuter parking which could damage efforts to regenerate the town centre.

1.7 Cabinet are now asked to endorse the work undertaken by officers to date to progress alternative regeneration proposals for Macclesfield Town Centre and to agree to delegate authority to officers and to Portfolio Holders going forward to enable delivery of a leisure led proposal as rapidly as practicable.

2.0 Recommendations

2.1 Cabinet is recommended to:

2.1.1 Endorse the termination of the Macclesfield Town Centre Development Agreement of 2007 (as amended in 2011) between Cheshire East Council, Wilson Bowden Developments Limited and Barratt Developments Plc;

2.1.2 Authorise the Executive Director of Economic Growth and Prosperity to withdraw the Cheshire East Council (Churchill Way, Macclesfield) Compulsory Purchase Order (CPO) 2014;

2.1.3 Endorse the proposal to press ahead with securing a leisure led development for the town centre, authorising officers to take all necessary actions to facilitate and secure the sale of an appropriate parcel of Council owned land within the area of the stalled Silk Street

development to enable the accelerated delivery of a leisure focused development, including (but not restricted to):

- a. Taking any measures necessary to reprovide for any market traders using Churchill Way car park
- b. Taking necessary measures to amend the Macclesfield Off Street Parking Places Order 2008 (or any replacement order) to enable either Duke Street car park or Churchill Way car park to be released for development dependent on the granting of planning permission for redevelopment of that car park for a leisure led regenerative development;
- c. Marketing both Churchill Way car park and and Duke Street car park for sale for a regenerative leisure led development to maximise potential opportunities;
- d. Authorising acquisition of any appropriate associated remaining freehold and leasehold interests relating to the Churchill Way or Duke Street car park sites to enable delivery of a leisure scheme, within approved budgets including taking necessary measures to agree confirmation of a 'lift and shift' agreement for accommodation of the electricity sub-station on the Churchill Way car park site;

2.1.4 Grant delegated authority to the Executive Director of Economic Growth and Prosperity in consultation with the Portfolio Holders for Macclesfield, Regeneration and Assets and Finance and Assets, and the Chief Operating Officer and Head of Legal Services, to authorise the sale of either site for the most advantageous scheme which emerges from the marketing process.

3.0 Reasons for Recommendations

- 3.1 The endorsement of the termination of the development agreement sends a clear message to potential future investors that the Council's partnership with Wilson Bowden has ended, and signals the start of a new era where all potential developers wishing to engage with the Council will be welcomed and considered on a level playing field.
- 3.2 The CPO is only justified if necessary to deliver a viable scheme which requires the full extent of the land set out in the draft Order. Since the viability of the wider Silk Street proposal can no longer be demonstrated, to continue pursuing the CPO application is therefore unjustified and its withdrawal should be pursued.
- 3.3 A land sale with covenants is deemed the most appropriate and effective route to ensuring the speedy delivery of a development on the site.

3.4 The Council has made a commitment to listening to the people of Macclesfield. The decision to consider potential schemes for either Duke Street car park or Churchill Way car park is clear evidence of the Council responding to stakeholders views.

4.0 Wards Affected

4.1 Macclesfield Central Ward.

5.0 Local Ward Members

5.1 Cllr. Beverley Dooley and Cllr. Janet Jackson.

6.0 Policy Implications

6.1 Progressing leisure development within the town centre aligns with the policies of the emerging Cheshire East Local Plan Strategy which encourages the maximisation of assets and leisure development within Macclesfield town centre.

6.2 Progressing leisure development in the town centre is also complementary to the following corporate policies:

- Ambition for All: Sustainable Communities Strategy 2010-2025
Priority 2 *Creating conditions for business growth*
- Ambition for All: Sustainable Communities Strategy 2010-2025
Priority 3 *Unlocking the Potential of our Towns.*
- Cheshire East Corporate Plan 2013-2016
Outcome 2 *Cheshire East has a strong and resilient economy*

7.0 Implications for Rural Communities

7.1 Macclesfield town centre serves a considerable rural catchment. Provision of a new leisure based development will benefit rural communities currently forced to travel considerable distances for many leisure activities. Development of a leisure scheme will also offer potential employment opportunities for those in the rural areas surrounding Macclesfield as well as those residing within the town itself.

8.0 Financial Implications

8.1 The termination of the Development Agreement results from a change in market circumstances outside the control of either the Council or Wilson Bowden. Wilson Bowden have agreed that in these circumstances there should be no claim for costs by either party.

8.2 There may be risks associated with the withdrawal of the CPO but these will be dealt with on a case by case basis.

- 8.3 Costs associated with the land deal route to delivery would initially be limited to marketing and advisory services, with development costs being the responsibility of the developer. Until the market has been thoroughly tested likely receipts from any sale are currently unclear.
- 8.4 If additional financing is required to support the delivery of the leisure development a business case will be developed and reported to Members for appropriate approval.

9.0 Legal Implications

- 9.1 Because the Development Agreement has fallen it is necessary to withdraw the CPO application as the CPO was based on and came into being only to ensure the ability to deliver the project envisaged in the Development Agreement.
- 9.2 Various legal procedures will have to be followed following on from decisions made, such as potentially making, removing or amending Traffic and/or Parking Orders, all of which will be subject to the appropriate reporting processes. Consideration will have to be given to the needs and requirements of Statutory Undertakers and again agreements relating to such needs will have to be the subject of appropriate permissions at the relevant time.
- 9.3 As for the land acquisitions and disposal mentioned in this report, 'the land transactions', a general background can be given as to the powers available, and more clarity can be given when a decision has been made:
 - 9.3.1 The Localism Act 2011 introduced the General Power of Competence, which allows the Council to do anything an individual can do, provided it is not prohibited by other legislation. These powers have replaced the previous wellbeing powers, however, the use of these powers must be in support of a reasonable and accountable decision made in line with public law principles.
 - 9.3.2 The General Disposal Consent 2003 authorises the disposal of land for 7 years or more at less than best consideration if the undervalue is £2million or less, if the undervalue is higher than £2million consent to the disposal is required from the Secretary of State. The value will be determined at the time of sale or lease.
 - 9.3.3 The Council has the power to grant a lease of the land pursuant to s123 of The Local Government Act 1972 subject to any disposal for 7 years or more being at the best consideration that can reasonably be obtained.
- 9.4 Notwithstanding the above powers, the Council has a fiduciary duty to the taxpayers and must fulfil this duty in a way which is accountable to local people.

- 9.5 All disposals must comply with the European Commission's State Aid rules. When disposing of land at less than best consideration the Council is providing a subsidy to the occupier of the land. In such cases the Council must ensure that the nature and the amount of the subsidy complies with State Aid rules, as failure to comply means that the aid is unlawful and may result in the benefit being recovered with interest from the recipient. If the 'recipient' receives less than approximately £144,742.45 (as at 11/06/2015 rates- 200,000 Euros) in State Aid over a 3 year period then the De Minimis Regulation will apply (small amounts of aid are unlikely to distort competition).
- 9.6 Acquisitions will also be subject to similar means of accountability to include best value being obtained, State Aid considerations, and in some transactions the complexity may involve procurement consideration under the procurement legislation. In addition each transaction will require the application of the Council's contract procedure rules, and for due diligence information/material, depending on each particular set of circumstances.
- 9.7 Relevant consideration will be given to the legal implications for each transaction and to the level of authority required under the Constitution as and when arising.

10.0 Risk Management

- 10.1 The underlying risk associated is of costs incurred in marketing resulting in limited market interest but this is deemed low risk considering interest already shown from potential developers.
- 10.2 Under the land deal route there is less control over output than from other routes, although the risk of inappropriate development is controllable via covenants and the planning system.

11.0 Background and Options

- 11.1 Macclesfield Town Centre is the heart of the Borough's second largest town and the importance of ensuring its vitality and attractiveness has long been recognised by the Council.
- 11.2 In 2005 Macclesfield Borough Council selected Wilson Bowden Developments as their Development Partner to deliver a regenerative town centre development on surface car parks within the town centre, entering into a Development Agreement with them in 2007. Cheshire East Council inherited that agreement, which was varied in 2011 to allow a reduced scale scheme for a department store, around 19 additional retail units, cinema, restaurants and public realm works. That scheme later became known as the 'Silk Street' proposal.
- 11.3 Earlier this year Wilson Bowden informed the Council that Debenhams, the anchor store for their development, had pulled out. In response, the Council announced its continued commitment to regenerating Macclesfield town

centre as a vibrant and vital hub which local residents and businesses can be proud of. The Council confirmed additional resources would be dedicated to progressing regeneration of the town centre and property expert Nick Hynes was appointed to both advise the Council on the best route to delivering regenerative development, and to Chair an advisory board made up of local stakeholders to help inform the regeneration programme for Macclesfield.

- 11.4 The Council also obtained a 6 month adjournment of the CPO public inquiry associated with the Silk Street scheme to give the Council and Wilson Bowden the opportunity to work together to explore alternative options to secure an anchor retail tenant. On 21st April, Cabinet empowered the advisory board, (Macclesfield Town Centre Vision Stakeholder Panel), to investigate options for accelerating the delivery of a leisure scheme for the town centre, and to capture the views of the local community regarding the ambitions and aspirations for the town centre.
- 11.5 Two meetings of the newly formed Macclesfield Town Centre Vision Stakeholder Panel have now been held. Early feedback from the Panel indicates general high levels of support for the principle of securing a leisure led development within the town centre, the general view being that a leisure development such as a cinema with restaurants would in itself be likely to significantly increase footfall, enhance the twilight and night time economy and be significantly beneficial to the vitality of the town centre. Feedback has also suggested local people would welcome an opportunity to reconsider the quantum of any additional retail floor space in the town centre given the continued rise in internet retailing, the continued draw of the largest retail destinations and increasing awareness of the need for a revised view of the role of town centres where community, leisure, culture and residential uses play a much larger part with retail becoming less dominant. The general view from the Stakeholder Panel on the retail element of the Silk Street scheme is that it was designed for a market that has moved on considerably in recent years and, if the opportunity arises to reconsider it, whilst a leisure scheme is progressed, this should absolutely be taken and would be welcomed.
- 11.6 Since Cabinet was last updated, a number of options to enable delivery of a leisure led development on part of the site have been explored including:
- Variation of/new Development Agreement with Wilson Bowden;
 - Direct delivery of a leisure led scheme by the Council;
 - Offering land to sale to developers for a leisure led development;
 - Appointment of a Development Manager to deliver scheme;
 - Appointment of a new Development Partner;
 - Agreeing Special Purchaser status for one potential bidder.

The pros and cons of each option are set out in **Appendix A**.

- 11.7 Any developer of a leisure led scheme would require a new planning permission and there is no advantage in planning terms in seeking to guide

any leisure scheme to the Churchill Way car park. Both sites are allocated for development in the adopted Local Plan. Discussions with the Macclesfield Town Centre Stakeholder Panel have indicated both sites should be put out to the market as potentially available for a leisure led scheme, allowing the widest possible chance for the Council to attract the best leisure led scheme the market can offer.

- 11.8 With regard to the CPO associated with the Silk Street proposal, the land covered by the CPO would only be required for delivery of the wider Silk Street scheme. The Council owns sufficient land on either Churchill Way or Duke Street for a leisure led scheme. Wilson Bowden's decision not to seek a replacement anchor and not to continue pursuing the delivery of the wider scheme, severely undermines the ability to demonstrate the viability of the wider scheme as would be required to gain confirmation of the CPO. If there is no potential scheme in place which necessitates the compulsory purchase of those interests as listed in the CPO, the CPO should be withdrawn as to do otherwise could be an abuse of CPO powers.
- 11.9 In addition, as long as the CPO remains, conflicting messages are being given regarding the Council's intentions for the site. It is important that prospective developers and indeed those considering investing in the town centre more generally, know the Council has a clear plan for delivery of regenerative development in the town centre so that they can make informed decisions. Uncertainty is not conducive to encouraging investment.
- 11.10 It is therefore important that the CPO is withdrawn and the Council's intention to market land within the area affected for a leisure led scheme is confirmed.
- 11.11 It is also considered important to ensure that in addition, proposals for the remainder of the former Silk Street site, not required to deliver the leisure development are progressed such that they can be mapped out and made public. A clear evidence base including data on car parking capacity, retail capacity, interest from developers in bringing forward schemes for a variety of suitable land uses, as well as the views of the Macclesfield Town Centre Vision Stakeholder Panel, needs to be clearly established in the first instance. Following on from this baseline work a Regeneration Strategy/Development Framework with a proactive plan for delivery can then be developed for the town centre in consultation with the Council's Planning officers.

12.0 Access to Information

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

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