

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 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".

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 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 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.

The ecological and tree impacts are considered to be appropriately mitigated through replacement woodland planting off site. 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. This provides the potential for wider social benefits to be realised in terms of future access to high quality open spaces. This should be acknowledged in the planning

balance, but given that this is aspirational at this stage it is considered that it can only be considered as a neutral aspect of the proposal.

Whilst the comments from Stockport MBC Highways are acknowledged, the highways impact upon Cheshire East and Stockport 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.

There are no sequentially preferable sites to accommodate the proposed development and the impact upon existing town centres, either as an individual development or cumulatively with other proposals, is considered to be acceptable.

Weighing heavily against the benefits identified above is the loss of employment land, and whilst the proposal would generate a significant number of jobs, it is not considered that the merits of the proposal should be judged solely by the numbers of jobs it creates. In fact the number of jobs created by the proposal could be significantly less than the potential number an office scheme on the site could generate.

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. 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.

The Council's 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. The Council is 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. However, the Framework and policy EG3 of the CELPS allow for alternative uses to be considered where there is no reasonable prospect of the site being used for employment purposes, or it has been demonstrated that the site is no longer suitable or viable for employment use.

It is acknowledged that the marketing of the site and the viability assessment that has been carried out both suggest that the prospects of an employment use on this site are unlikely. There does however remain a concern that the viability appraisals submitted do not evidence that all employment uses are unviable and that this, coupled with the employment land position advanced for the CELPS, fail to demonstrate that there is no reasonable prospect of the site being used for employment purposes.

Despite the identified benefits, it is not considered that there are sufficient material considerations to indicate a move away from the Development Plan. 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.

### **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)

E2 (Retail development on 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)  
DC63 (Contaminated land)

### **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
- Impact of other retail schemes in area 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
- A 20% decrease in the application site area site search should be applied (i.e. sites from 1.0ha) in applying flexibility in the sequential assessment for the development.
- Other sequentially preferable sites exist
- It is important to safeguard and strengthen town centres and this can only be achieved by focusing new retail development in the core retail area.
- The proposals do not support the vitality and viability of Stockport Town Centre
- Impacts will include investment decisions by existing multiple retailers to re-locate, close, or to downsize their existing store(s)
- The decision to allow significant retail on the A34 20 years ago significantly damaged Stockport and Macclesfield Town Centres with the result that both Cheshire East and SMBC are having to intervene directly into regenerating them.

**Stockport MBC Highways** - Object on the following grounds:

- Use of average trip rates for assessment purposes is a concern as there is clearly a 50% chance that they could be inaccurate
- No weekend traffic modelling provided
- The use of Temprow growth on the A34 corridor (aside from the Handforth traffic) is not appropriate as it is likely to underestimate the traffic impact of other possible development sites
- Scheme for the A34 / Stanley Road junction has not been subject to consultation with or agreement by Stockport Council.
- Unclear whether the submitted modelling exercises have been submitted to and/or verified by TfGM
- Site is remote from significant residential catchment areas and is effectively severed from the main residential areas by the presence of the A34 corridor
- Application includes little in terms of measures to promote sustainable access
- Development generates a significant numbers of trips and mitigation should be provided in a sustainable manner to sufficiently deal with this impact
- The impact on Stockport's roads of this proposal could be judged to be a severe adverse impact

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

In the most recent comments from the Parish Council received on 12 April 2017 they raise no objections to the proposal but request that the developer provides a separate storage area for recyclable waste.

## 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. Three further letters have been received from interested parties (from or on behalf of Eskmuir, Intu and Peel) objecting to the proposals on the following grounds:

- Catchment Area continues to ignore the SEMMMS Link Road
- CPG continue to consider The Peel Centre and Stockport Town Centre separately
- Orbit and CPG schemes cannot draw trade from each other if they come forward and open for trade at the same time as neither has a customer base at the point of opening which can be drawn from.
- In the absence of public information about the occupiers of the development £10,000sqm should be used as a sales density
- The turnover of existing facilities does not necessarily marry up to some of the trade draw assumptions
- Some committed developments within the catchment area have not been included within HOW's assessment:
  - Lidl, Hempshaw Lane (Ref: DC/060961)
  - Aldi, London Road South, Poynton (Ref: 14/5368M)
  - Aldi, Offerton Precinct (Ref: DC050745)
  - Stockport Exchange (Ref: DC054978)
  - Brighton Road Industrial Estate, Stockport (Ref: DC/060607)

## **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

Additional information relating to the employment land situation in the local area, the viability of the site and the marketing if the site has also been submitted in response to the previously published committee report.

## **APPRAISAL**

The key issues in the determination of this application are:

- Loss of employment land
- Retail / town centre 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 requires that 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 Marketing Activity 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.

Following comments made in the previous Committee report (which was withdrawn from the 19 April Agenda) the applicant has responded to the issues raised. These issues and the applicant's further responses are discussed below. The responses from the applicant relating to the marketing of the site have been provided by Engine of the North.

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. Within the original submission it was not explained why the site was marketed only on a short term leasehold basis at that time, and concerns were raised by officers in the previously withdrawn committee report that 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 applicant has sought to clarify this with reference to a Report of the Strategic Director Places and Organisational Capacity to Cabinet on 28th November 2011 to consider the options for the development of this land to maximise employment opportunities and financial returns. This public report explains that the reason for the short term marketing was to secure an occupier and revenue stream from the site whilst, *“The Council investigates further the options for development of the site ... to maximise employment opportunities and financial returns”*.

The Cabinet report also explained that interest was shown in more long term commitments to the site. The report states that:

*“Limited interest has been shown following the marketing of the site on a short term lease basis. Regular enquiries have been received however for the freehold interest of the site. Whilst the majority of these enquiries fall outside what would be classed as an employment type use there has been recent interest from a number of sources that would indicate there may be development opportunities including investment / expansion enquiries from existing Cheshire East companies.”*

For the purposes of assessing the marketing activity in the context of the current application, officers therefore do now accept that the marketing (on a short-term lease basis) did generate interest in longer term commitments to the site rather than deter it, and acknowledge that the *“majority of these enquiries fall outside what would be classed as an employment type use”*.

Further to this, again in the previously withdrawn committee report officers raised concern that rather than capitalising upon the interest that had been shown in 2010/2011 the marketing seems to have stalled until March 2012, which may have led to the loss of the previous interest shown in the site. However, the applicant has now responded to this by noting that, *“most of the interest shown in the site during this period was for non-employment uses, notably retail. This interest from this sector of the market was not pursued at that time because the Council had a very clear intention to see the site developed for Employment Use”*.

These comments are consistent with the resolution of the Council’s Cabinet on 28 November 2011, which stated:

1. *That the Council investigates further the options for development of the site, [including those options outlined in 10.3 - 10.5 of the report,] to maximise employment opportunities and financial returns.*
2. *That a feasibility exercise be undertaken and expressions of interest sought from the market in order to better understand the current demand and occupier requirements.*

3. *That the conclusions of the above investigations be considered by the Cabinet in Spring 2012.*

Concern was raised previously by Officers that 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.

In response to this the applicant refers to a report to Cabinet by the Head of Development at that time (January 2013) which states that *“A recent soft market testing exercise to explore commercial interest suggests there is potential to bring this site forward as a high-quality employment led regeneration opportunity.”* This resulted in the resolution from the Cabinet meeting on 7 January 2013 being to:

- i) *Take all necessary action to bring forward, through phased direct development, the Council’s landholding at Earl Road, Handforth for employment led uses in line with current planning policy.*
- ii) *Invest up to £130,000 towards the cost of financial appraisal, site investigation and masterplanning work.*
- iii) *Commence marketing of serviced plots in order to ensure timely delivery on site.*

As the applicant notes, *“The Council’s intention at this time could not have been stated more clearly. In spite of strong interest from retail and leisure uses, the Council remained committed to developing the Site for Employment Uses in line with planning policy.”*

Again for the purposes of assessing the likelihood of the site being used for employment purposes, officers do accept that none of the parties who expressed interest in employment uses on the site pursued their interest through to a formal offer.

The previously withdrawn committee report also suggested that 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. In response, the applicant points out that there has only been limited interest in the site for employment uses since it was allocated for such use in 1997. Short term market conditions do not appear to be a material factor. In addition the applicant has provided a letter from the marketing agents CBRE which states that, *“The economic crash was 2008/9 and therefore the soft marketing in 2012 took place 3/4 years after, and the national campaign took place 5/6 years post recession and within a period of stability and sustained low interest rates. Industrial deals were completed elsewhere during this period of relative strong market conditions. In contrast, the immediate future now looks uncertain with Brexit likely to impact the market.”*

A report commissioned by the Council (as landowner) and prepared by Deloitte in 2013/2014 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. Whilst this may still be the case, the applicant has again referred to a third Cabinet Report (from 4 March 2014), which seeks approval for disposal of the site potential land uses, including employment, retail, leisure and sui generis use such as car showrooms. This is clearly a shift from traditional employment uses, but given the steps taken previously to attract employment uses, and the lack of interest in preceding years, such a change in strategy is now understandable. Added to this, this shift occurred when Next received permission (or more accurately a resolution to grant permission at that time) on part of the site for a retail use, but at a time when no disposal agreement existed between the Council (as landowner) and Next Plc in relation to the plot in question. The marketing covered the whole site, including the Next plot, which did have an approved retail use.

The submitted letter from CBRE states that, *“It is worth reiterating that in the initial round of bids concluded in June 2014, we received 53 separate offers for the site, of which only 1 was for a wholly employment use scheme comprising two large distribution units”*. The higher offers that were received were based on exclusively retail / leisure schemes and concern was raised by officers in the previously withdrawn committee report regarding the Council’s legal obligation to obtain best value from the sale. Typically, this obligation is discharged by accepting the highest price, which would inevitably be a retail / leisure use based on the offers received. However, the applicant has explained that the Council is permitted to sell at less than the highest price when there are social, economic or environmental benefits associated with under-bids. Added to this 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.

Overall, in terms of the concerns raised by officers in the previously withdrawn committee report relating to the marketing of the site, it is now considered to be much clearer. The Council’s aspirations for the use of this site have justifiably changed over time, as they would for any other landowner, due to the lack of interest in employment uses during the 20 years the site has been allocated as such, and particularly since 2010.

It should also be noted that as part of the consideration of the Next scheme between 2013 and 2015 on the adjacent site, the fact that previous marketing campaigns did not find anyone willing to develop the site for employment purposes, was material to the decision to approve.

Added to the unsuccessful marketing campaigns, 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 was previously dismissed by officers as being high level and appeared to adopt a broad brush approach to the assessment and figures included within it. However a further review of the evidence submitted has now been made, alongside evidence available to the Council through the Cheshire East Local Plan work which has questioned that previous approach. The applicants also point to recent experiences from the

construction of the Next store which has highlighted those difficult ground conditions for construction which adds to costs.

It is considered that the submission follows an industry standard format and does demonstrate that there is viability issues associated with the development of this site. However, the applicants do not believe the site is likely to attract an office use so no viability appraisal has been submitted for this type of use. It is considered that the lower values associated industrial and warehouse uses may not fully demonstrate that the site is unviable. An office based scheme could also create a significantly higher number of jobs across the site than those currently advanced for retail use.

The viability report also reflects the advice previously given to Engine of the North by Deloitte in 2014 which also concludes that *“an exclusively employment led scheme will be a significant challenge and potentially not viable given the competition from other more preferable/established sites in the area such as Cheadle Royal or ones with future potential for critical mass such as Airport City.”*

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.

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 potential 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 in fact 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. It is therefore very important that existing employment land allocations are not lost to alternative uses unless it can be demonstrated that there is no reasonable prospect of the site being used for employment purposes.

### **Conclusion on loss of employment land**

The applicant has provided additional details relating to the Council's strategy for the marketing of the site, which it is acknowledged has identified very little interest from potential employment users of the site. The site has been an employment allocation in the various iterations of the development plan for approximately 20 years and remains undeveloped.

Added to this the applicant has completed a viability report, which is in line with the RICS Guidance Note "Financial Viability in Planning" and is accepted practice. The report refers to known constraints on the site and some abnormal costs (notably ground conditions) which have resulted from experience in constructing the Next store on the site. The report concludes that a development for employment purposes is unviable.

However, balanced against this is the acknowledged prime location of the site in south Manchester and the increased employment land provision required as part of the CELPS. Viability work for office uses on the site also needs further exploration.

Therefore, it is not considered that the applicant has demonstrated that the site is no longer suitable or viable for employment use, in accordance with policy EG3 of the CELPS, or that

there is no reasonable prospect of the site being used for employment purposes, in accordance with paragraph 22 of the Framework. Accordingly it is not considered that there is a case for alternative development at this time.

## **TOWN CENTRE 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 their comments are incorporated below.

## SEQUENTIAL TEST

Planning applications for sites outside defined town centre boundaries are subject to a sequential test. The application to the sequential approach is described in Paragraph 24 of the NPPF (2012):

*“Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require 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. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.”*

Relevant case law and appeal decisions regarding the sequential approach is set out in the report for application 16/0138M, and is therefore not repeated here.

The application site area is 1.3ha and the applicant has stated that the amount, layout and scale of the proposal is limited to the requirements and formats of potential occupiers, and in this case, the proposed drive-thru occupiers will have formats requiring food vehicular access, customer parking and space for the facility. The applicant has also stated that in order for the site to be able to suitably serve the same catchment as the proposed development, it must be located within the same primary catchment. The proposed development is an ancillary use to the existing and proposed Class A1 uses in the locality and therefore the search area for the proposed development extends to the primary catchment, which extends broadly as far north as Burnage, as far south as Nether Alderley / Chelford, as far east as Hazel Grove and as far west as Styal and Mobberley. As such the applicant has provided an assessment of seven identified sites within the primary catchment. The sites are:

1. Land off Daisy Bank Lane, Heald Green;

2. Land South-East of the junction of Styal Road and Finney Lane;
3. Metropolitan House, Cheadle Hulme;
4. Land at Medway, Bramhall;
5. Tatton Cinema, Gatley;
6. Massie Street Car Park, Cheadle; and
7. Cheshire East Car Park Leisure Centre, Wilmslow.
8. Water Street, Stockport
9. Barracks Mill, Macclesfield

Following WYG's consideration and advice on these sites, it is accepted that none of the sites identified by the applicant are available and suitable to accommodate the development proposed under this application.

### IMPACT TEST

The impact test set out in paragraph 26 of the Framework relates to retail, leisure and office developments. However, as a restaurant / drive-thru use (Class A3/A5), the proposal does not qualify as a retail use (Class A1), leisure use (Class D2) or an office use (Class B1), and therefore an assessment of the impact is not strictly required.

However, the impact on investment assessment carried out for application 16/0138M is, to some extent, relevant to the current proposal, as the proposed restaurants and drive-thrus take the same form in this application and 16/0138M, and the details of this are provided below.

#### Silk Street, Macclesfield

The Silk Street scheme is now centred on a new cinema (Use Class D2) anchor with associated restaurant (use Class A3 to A5) uses that will complement that proposed use. It is accepted that with no cinema being proposed at the application site it is unlikely to compete directly with the Silk Street scheme. Furthermore, the applicant considers that any restaurants uses would not compete but are likely to operate from both locations as they are both complimentary and ancillary to the main primary function of the respective developments. The applicant further suggests that they would both serve different catchment areas. This position is supported by two letters provided by McDonalds and Tasty Plc ('dim t' and Wildwood Restaurants) which confirm that they consider Macclesfield, Stockport, Parrswood and Handforth Dean as separate catchments. This is useful evidence, albeit limited in that it is focused to a single drive thru operator and a single chain restaurant operator (with limited (7) 'dim t' restaurant portfolio all in London and Wildwood Pizza which operate across major settlements across the UK). However, the duality trading position does marry with WYG's experience elsewhere whereby restaurant, food and beverage operators, especially those focused on more fast food related operations, do seek dual representation at various locations to help exploit footfall generated and varying retail formats, and this can be experienced across both town centre at retail park formats.

It is unlikely that the proposed level of A3/A5 uses at the proposed development would prejudice the ability of the Silk Street scheme coming forward as this is being driven by the Council's desire to facilitate a key leisure anchor in the form of the cinema, and address a key deficiency in the town's wider leisure offer. This intervention will increase overall footfall which will ultimately drive the need for complementary local food and beverage footfall in that

locale. Furthermore, Silk Street is likely to be targeted towards a different end user such as families and high quality dining experience linked to enhanced evening pastime and wider leisure activities. Whereby the A3/A5 uses at the proposed development are likely to be more orientated to fast food and drive thru facilities and to enhance local dwell times at the application scheme linked to the shopping experience (typically involving quicker dining experiences as part of a wider shopping trip). Therefore, it is likely to represent a qualitative difference in the food offer aimed at differing audiences. Lastly, it should be noted that the Council is pursuing the Silk Street scheme in full acknowledgement of the application scheme being proposed (as the landowner of the site) and this does not appear to affecting the ability of the Council to facilitate a leisure based scheme, therefore there does not appear to be any prejudicial impact on the intended investment.

## 2. Redrock, Stockport

It is clear from representations by Stockport Council and from the marketing material for the Redrock development that a significant level of the proposed floorspace has been pre-let in advance of the development opening later in 2017. These pre-lets have been agreed in the full knowledge of the proposals at Earl Road, although it is accepted that there is still further space to be occupied. As with the Silk Street scheme, it is clear that the restaurant operators that are being secured at Redrock are taking advantage of the probable footfall to be created from the anchor Light cinema facility and all the restaurant units are focused towards family and high quality sit down experiences linked to wider evening activity that will be created. It is therefore accepted that the proposed restaurant and A3/A5 uses at the application site are likely to be different to those being promoted at Redrock and therefore the prejudicial impact is likely to be more limited. However, this is with an element of caution, as there will be some overlap and it is a material consideration that the initiative for Redrock (as well as others including Silk Street) is to diversify the wider offer of Stockport town centre in direct response to its declining retail role that has been quantified by the Council's Retail Study. However, given the relatively limited scale of the proposed units (A1, A2, B and C) which are designed to cater for more family and sit down eating establishments it is unlikely that in isolation this would prejudice the investment in such space in Stockport given the wider initiatives that are being pursued. The promoters of Redrock have also not formally objected to the current application. Overall, it is considered that the proposed Class A3/A5 units will not significantly impact on any planned or committed town centre investment.

### Other investment

As noted above the Market Place and Underbanks initiatives within Stockport as well as the Stockport Exchange are both considered to represent qualitatively different offers that would not be affected by the proposal at the application site.

Stockport Borough Council has recently bought the Merseyway Shopping Centre in Stockport (April 2017), with it having been in receivership for the past seven years. As part of their representation to the applications, Stockport MBC states that the Council intends to invest some £40m on the refurbishment of the shopping centre over the next two to three years. It is understood that this will likely include improvements to Mersey Square, enhancements to the appearance of shops, and improvements to existing units, although we can find no evidence of a formal scheme of works being published by the Authority to date. Stockport's representations state that the Earl Road scheme will undermine this planned future investment in the Merseyway shopping centre.

In forming a view as to whether this will be the case, it is necessary to have regard to the wording of the Planning Practice Guidance and particularly paragraph 16 (ID: 2b-016-20140306). This states that a key consideration in assessing the impact of a planning application on future investment decisions is 'the progress made towards securing the investment'. In this regard, the improvements proposed to Merseyway are yet to be the subject of a planning application and indeed the final scope of works do not appear, as yet, to have been published or endorsed by the Council. Drawing upon the wording of paragraph 26 of the NPPF, it cannot therefore be said that the investment proposed in Merseyway is 'existing' or 'committed' and at best it can be described as 'planned' (albeit they do not benefit from planning permission). Given this position, it is not considered that at this point in time that it can be said with any certainty that the application proposals at Earl Road would undermine the Council's plans to invest in Merseyway – particularly when the scope of such works is yet to be finalised and the necessary permissions for them yet to be obtained. Furthermore, the Council now owns the Merseyway shopping centre and has aspirations to improve its future appearance and offer. Furthermore, a March 2017 press release by Marketing Stockport suggested that following the recent opening of Trespass and Holland & Barrett stores at the shopping centre, its occupancy rate has now risen to in excess of 95% - indicating improvement in the centre. Accordingly, it is not considered that there would be any significant 'impact on investment'.

The conclusion would be the same in the event that this proposal came forward with applications 16/3284M (extension to Next store) and 16/5678M (Orbit).

## **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.

### Stockport MBC Highways

Stockport MBC Highways have raised a number of concerns regarding the highways impact and sustainability of the proposal. In response to this objection the applicant has provide the following details:

- All trip rates and input parameters were agreed with both Cheshire East Council and Stockport Council in advance of the Transport Assessment being prepared.
- The submitted Transport Assessment included a Saturday assessment, which demonstrated that this was no more critical than the Friday peak periods.
- VISSIM modelling included an assessment of the network with all the proposed Local Plan allocations. On reviewing this model it was concluded that this approach was overly robust and that the proposed development at Handforth Dean Retail Park would not be required to
- address such a level of traffic impact. Accordingly, the assessment parameters were amended to take account of only the North Cheshire Growth Village and then account

for some base line growth. This is considered to be representative of a reasonable approach to assessment.

- Stockport Council state that as part of the development proposals it is intended to remove the signals from the A34 / Stanley Road junction. This is however incorrect; no such proposal is linked with the planning application.
- The proposed development will not have a material impact on the operational performance of the A34 / Stanley Road roundabout.
- Cheshire East Council as Local Highway Authority are not required to submit development proposal to TfGM. However there would be no reason preventing Stockport Council seeking the advice of TfGM if they themselves considered it necessary to do so.
- Commitments to sustainable modes of travel under application reference 16/0138M include footway and cycle way improvement works to Footpath No 80 and have been agreed with the PROW Officer at Cheshire East Council.

Cheshire East Highways officers are satisfied with this response.

#### Highways conclusion

The results of the traffic modelling, along with the sustainable measures discussed above and supported by the submission of future individual occupiers Travel Plans, demonstrate that the proposed development is acceptable from a network operational performance and connectivity perspective in the context of current planning policy subject to the provision of a condition requiring improvements to be carried out to the footway at the southern end of Earl Road leading to the southern retail park, and a s106 agreement to secure a monitoring fee for a travel plan.

In terms of the impact upon the Cheshire East Highway network and the Stockport Highway network, for the reasons outlined above the proposal is considered to be acceptable.

#### **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 the 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.

However, given that no specific deficiencies in provision are known to exist in the local area, the nearest open space area is approximately 600 metres from the application site, the nature of the development as a shopping destination is unlikely to create significant pressure on existing open space facilities, and the fact that the contributions already being made towards the ecological mitigation tie in with the Council's aspirations of developing a Country Park connecting up Styal to the Wilmslow area, it is considered the contributions towards open space and recreation and outdoor sport are not considered to be necessary to make the development acceptable in planning terms. The contributions would therefore not comply with the CIL regulations, and cannot be secured on that basis.

## **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 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 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.

The ecological and tree impacts are considered to be appropriately mitigated through replacement woodland planting off site. 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. This provides the potential for wider social benefits to be realised in terms of future access to high quality open spaces. This should be acknowledged in the planning balance, but given that this is aspirational at this stage it is considered that it can only be considered as a neutral aspect of the proposal.

Whilst the comments from Stockport MBC Highways are acknowledged, the highways impact upon Cheshire East and Stockport 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.

There are no sequentially preferable sites to accommodate the proposed development and the impact upon existing town centres, either as an individual development or cumulatively with other proposals, is considered to be acceptable.

Weighing heavily against the benefits identified above is the loss of employment land, and whilst the proposal would generate a significant number of jobs, it is not considered that the merits of the proposal should be judged solely by the numbers of jobs it creates.

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. 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.

The Council's 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. The Council is 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. However, the Framework and policy EG3 of the CELPS allow for alternative uses to be considered where there is no reasonable prospect of the site being used for employment purposes.

It is acknowledged that the marketing of the site and the viability assessment that has been carried out both suggest that the prospects of an employment use on this site are unlikely. There does however remain a concern that the viability appraisal submitted does not evidence that all employment uses are unviable and that this, coupled with the employment land position advanced for the CELPS, fail to demonstrate that there is no reasonable prospect of the site being used for employment purposes.

Despite the identified benefits, it is not considered that there are sufficient material considerations to indicate a move away from the Development Plan. 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.

## **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 not been satisfactorily demonstrated that there is no reasonable prospect of the site being used for employment purposes, or that the site is no longer suitable or viable for employment use, 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.**

## **REFERRAL TO SECRETARY OF STATE**

It should be noted that whilst the application is of a scale that is not automatically referred to the Secretary of State under the requirements of The Town and Country Planning (Consultation) (England) Direction 2009: circular 02/2009, the Secretary of State has received a request to intervene from a third party. Therefore any resolution to approve will be subject to referral to the Secretary of State, and dependent upon the outcome of this process.

## **HEADS OF TERMS**

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 £66,000 towards replacement woodland habitat planting (for set up costs, woodland creation and 30 years of management and maintenance costs).
- Financial contribution of £5,000 for travel plan monitoring

## **Community Infrastructure Levy (CIL) Regulations**

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now 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.

In this case the proposed financial contribution for woodland planting is required to provide and manage 3.2ha of replacement woodland planting to mitigate for the loss of the woodland habitat on the application site in order to make the development acceptable in planning terms and is directly related to the development. Calculated using the 'The Biodiversity Impact Assessment Calculator', which has been developed by Warwickshire County Council as part of the offsetting pilot project, the contribution is considered to fairly and reasonably relate in scale and kind to the development.

The travel plan contribution is required to ensure that sustainable transport measures that are put in place are effective and ensure the provision of a sustainable form of development.

*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.*

