

**OPEN**

## **Economy and Growth Committee**

**11 March 2025**

### **Future of Churchill Way and Duke Street Car Parks, Macclesfield Town Centre**

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**Report of: Peter Skates, Director of Growth and Enterprise**

**Report Reference No: EG/20/24-25**

**Ward(s) Affected: Macclesfield Central**

**For Decision or Scrutiny: Decision**

#### **Purpose of Report**

- 1 This report highlights the recent findings of a feasibility study conducted to explore the potential to declare surplus land contained within Duke Street and Churchill Way car parks and to release such land for redevelopment for housing.

#### **Executive Summary**

- 2 Following the government's recent announcement that Council's will be provided with a set mandatory housing supply target, the Council will need to consider its current housing land supply and whether there is an increased need to identify suitable sites for new housing within the borough. As part of this process the Council should consider opportunities associated with its own land assets.
- 3 The adopted Cheshire East Local Plan and the approved Macclesfield Town Centre Strategic Regeneration Framework (SRF) identify the potential to consolidate parking in Macclesfield town centre, and so enable the release of some land currently used for car parking, for redevelopment. The SRF identifies that land currently used for surface parking along Churchill Way could be redeveloped to provide new homes, whilst creating a 'green boulevard', and enhancing first impressions of the town by infilling the current 'broken frontage' to Churchill Way, subject to the consideration of any parking implications that the removal of the car parks may have.

- 4 The Council was awarded UK Shared Prosperity funding (UKSPF) which it has utilised to fund a feasibility study exploring whether the redevelopment of the car parks at Churchill Way and Duke Street would have an unacceptable impact on car parking in the area and whether the whole or part of the car parks could be released.
- 5 The study indicated that partial release of both car parks should not result in significant negative impacts. The study also puts forward suggested initiatives to be taken forward to improve remaining parking areas.
- 6 This report seeks authority from Economy and Growth Committee to allow officers to develop the study findings further with a view to potentially releasing land and surplus car parking in Churchill Way and Duke Street for housing redevelopment in the interests of both boosting housing supply and supporting town centre regeneration efforts, if the Parking Service declare the areas surplus to operational requirements.

#### RECOMMENDATIONS

The Economy and Growth Committee is recommended to:

1. Agree the proposal to bring forward land forming part of Churchill Way and Duke Street car parks as housing sites subject to them being declared operationally surplus.
2. Delegate authority to the Executive Director - Place to explore and select the most appropriate form of housing redevelopment to be located on the surplus land forming part of Churchill Way and Duke Street car parks.

## Background

### *Strategic Context*

- 7 Many town centres are struggling to maintain vitality and viability in the face of ongoing long-term challenges posed by external threats such as the rise of online retailing. In Macclesfield there is an additional challenge created by the opening of a new retail park approved at appeal to the north of the town.
- 8 The adopted Cheshire East Local Plan Strategy adopted in 2017 states that *"the Council will look to maximise opportunities for improvement and regeneration in Central Macclesfield"* noting that, *"There are numerous opportunities to rationalise and consolidate existing car parks – in so doing 'unlocking' important regeneration opportunities."*

- 9 The Macclesfield Town Centre SRF, approved October 2019, also identifies that within the town centre there are several surface car parks which both detract from the appearance of the town centre and appear to be underutilised. It suggests that opportunities are explored to consolidate parking in the town centre and release some surface car parking for redevelopment to support town centre vitality and viability.
- 10 The SRF specifically identifies the potential to support town centre regeneration if car parks around Churchill Way can be redeveloped for housing and suggests that opportunities should be taken to 'green' the area, reduce car dominance, and improve pedestrian priority.
- 11 The potential benefits of redevelopment of underutilised car parks in Macclesfield town centre include:
  - New homes supporting housing needs, including potential for specialist housing
  - Diversifying choice of homes available in a highly sustainable location
  - Increased population living in the town centre, spending money locally to support the vitality and viability of town centre businesses including the evening economy
  - Attracting investment in construction
  - Increased council tax receipts
  - Modern homes suitable to attract younger workers needed to support key local employers such as at Astra Zeneca and Alderley Park
  - Potential for well-designed buildings to increase values of residential and commercial property
  - Potential to release funds to invest in other improvements such as greening or improving pedestrian priority.

### *Parking Study*

- 12 It is clearly important to ensure adequate parking is retained to support the needs of residents, visitors, and businesses, to avoid undermining town centre vitality and residential amenity. To enable informed consideration, UKSPF has been utilised to fund a feasibility study exploring the impact of partial or full release of Churchill Way and Duke Street car parks.
- 13 The study report is attached as Appendix 1. In summary it indicates that if the capacity of Churchill Way car park, and Duke Street car park were

reduced to 123 spaces and 105 spaces respectively, displaced vehicles could be accommodated in existing alternative car parks.

- 14 The study also recommends potential measures to facilitate and mitigate the impacts of releasing parking spaces for development.
- 15 In view of the identified need for increased housing supply and the anticipated benefits to town centre regeneration of additional town centre housing, it is proposed that officers explore the options for housing redevelopment on part of Churchill Way and Duke Street car parks, retaining approximately 123 spaces and 105 spaces in those car parks respectively to cater for residents permits and to retain some town centre public parking. Any release of land for housing development would be subject to these areas being declared surplus to operational requirements. Any decision to declare the areas surplus would appear to be a logical outcome following the Parking Study, but such a decision would fall outside the remit of Economy and Growth Committee.

#### *Form of housing redevelopment*

- 16 The most appropriate form of housing development on these sites, if released for redevelopment has yet to be established. The options have not yet been explored by officers ahead of confirming that members are supportive of the release of the land for redevelopment in principle.
- 17 Whilst officers in the Economic Development Service, are keen to pursue a housing scheme which maximises benefits for the local economy and health of the town centre, it is recognised that there are other factors which need to be explored, for example ensuring any development reflects the character of the locality and preserves or enhances the character of the adjacent Christ Church Conservation Area and setting of nearby listed buildings, and whether any land is needed to meet any specific housing needs not being met by the market such as provision of emergency accommodation in Macclesfield.
- 18 It is proposed that officers in the Economic Development team lead in exploring options with input from other services including Assets, Planning, Housing, Adult and Children's services, and as appropriate other enabling services such as Legal and Procurement.
- 19 Once a preferred form of housing and a preferred delivery route has been identified, a further report would be brought back to Economy and Growth Committee seeking authority to proceed along the recommended route.

## **Consultation and Engagement**

- 20 The Macclesfield Town Centre SRF, whilst still in draft form, was the subject of a public consultation exercise which ran from 13th February to 13th March 2019. Details of the process undertaken to engage stakeholders are set out in a published [Statement of Consultation and Engagement](#). The draft SRF was refined as a result of that consultation, before being finalised and approved by Cabinet on 8 October 2019.
- 21 Macclesfield Central Ward Members were invited to a meeting to appraise them of the proposals at a meeting held on 5th February.

## **Reasons for Recommendations**

- 22 The Council's Corporate Plan sets out as part of one of its three key aims, the ambition to drive sustainable development, prioritising making Cheshire East a great place for people to live, work and visit with thriving economies and a transport network which promotes active travel.
- 23 Redeveloping car parking surplus to operational requirements offers a route to supporting the local economy whilst also boosting housing supply and improved range of housing choice. Simultaneously it has the potential to support a sustainable financial future for the Council, by generating capital receipts, reducing costs associated with managing under-utilised assets and increasing income from Council tax.

## **Other Options Considered**

- 24 Doing nothing is clearly an option which needs to be considered in this case with all parking on Churchill Way and Duke Street retained as at present. This would fail to generate the benefits set out in paragraph 11.

## **Implications and Comments**

### *Monitoring Officer/Legal*

- 25 Local authorities usually allocate land for specific purposes under different statutory powers. They may have acquired the land pursuant to a statute which then regulates how the land must be allocated or managed (e.g., under the Public Health Act 1875) or they may have acquired land for general purposes. It will be necessary for legal services to investigate how the Council acquired this land and if it was for a specific purpose.
- 26 S122 of the Local Government Act 1972 (LGA) and s232 of the Town and Country Planning Act 1990 (TCPA) offer two mechanisms under which local authorities may appropriate land for planning purposes. The procedures are largely the same but for one crucial difference, whether

or not the land is currently appropriated by the Council for planning purposes.

- 27 Appropriation simply means transferring the allocation of the land from one purpose to another.
- 28 If the local authority decides that it needs to transfer land from one purpose or function to another, perhaps for redevelopment then it may appropriate the land under s.122 LGA 1972, unless the land is currently already allocated for planning purposes, in which case s.232(6) TCPA states that s.232 TCPA must be used.
- 29 “Planning purposes” is not expressly defined but s.246 TCPA states any reference to appropriation of land for planning purposes is reference to the appropriation of it for the purposes for which land could be acquired under s.226 & s.227 TCPA. Therefore, “planning purposes” means an acquisition or appropriation which will facilitate the carrying out of development, re-development or improvement which is likely to contribute to the economic, social or environmental well-being of the area, or which is required in the interests of the proper planning of the area in which the land is situated.

#### Appropriation under Section 122 Local Government Act

- 30 S122 LGA 1972 provides that:

*“The council may appropriate for any purpose for which the council is authorised by statute to acquire land by agreement any land which belongs to it and is no longer required for the purpose for which it is held immediately before the appropriation.”*

The key procedural points are as follows:

- a) The land must already belong to the council
  - b) The land must be no longer required for the purpose for which it is currently appropriated; and
  - c) The purpose for which the council is appropriating must be authorised by statute.
- 31 It is important to note that it is a matter for the local authority to satisfy itself whether or not the land is still required for the purpose for which it is held immediately before the appropriation and its decision cannot be challenged in the absence of bad faith.
- 32 S122 LGA 1972 provides that the Council may not appropriate land constituting or forming part of an ‘open space’ or land forming part of a

common (unless it is a common or fuel or field garden allotment of less than 250 square yards) unless they:

- advertise their intention to do so for two consecutive weeks in a newspaper circulating in the local area; and
- consider any objections to the proposed appropriation which may be made to them.

‘Open space’ is defined by s.336(1) TCPA 1990 as “any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground” this impliedly includes de facto open space land not formally dedicated under the Open Spaces Act 1906.

The Council generally has taken a wider view as to what constitutes open space. The land contained within public car parks may be deemed to be open space within the Councils wider view.

If appropriation of the land were to take place under the Local Government Act 1972, the land would still be subject to any third parties rights and/ or interests that exist or incidental to the land.

### 33 Appropriation Under Section 232 TCPA

S 232 TCPA 1990 provides that:

*“Where any land had been acquired or appropriated by a local authority for planning purposes and is for the time being held by them for the purposes for which it was so acquired or appropriated, the authority may appropriate land for any purpose for which the council is authorised by statute to acquire land by agreement.”*

The key procedural points are as follows:

- a) The land must already belong to the council and have been acquired or appropriated for planning purposes
- b) The land must be held by the council for purposes which it was appropriated; and
- c) The purpose for which the council is appropriating must be authorised by statute.

34 It is important to note that s.232(4) of the TCPA provides that the Council must follow the same advertising requirements for ‘open space’ as above.

35 S 237 TCPA 1990 provides that the erection, construction or carrying out of any building work (by the Council or a person deriving title from the Council) on land which has been appropriated by a local authority for planning purposes is authorised if it is done in accordance with planning permission, notwithstanding that it interferes with certain private rights

such as restrictive covenants and easements. The private rights are converted into a claim for compensation.

- 36 The decision to appropriate land is, like many administrative actions by public authorities, subject to challenge by judicial review. If private rights are to be overridden the Council must be especially careful. The Council must be able to demonstrate the purpose for the appropriation and that it has taken all the relevant considerations into account and not taken any irrelevant considerations into account.
- 37 To enable the Council to demonstrate that the decision has been made properly and in accordance with Wednesbury reasonableness, the proposal to appropriate must be the subject of a comprehensive report and decision record or minute. The minutes should show that the land is not currently appropriated for planning purposes and that the Council intends to formally appropriate the land under s.122 LGA 1972 or that the land is currently held for planning purposes and that the Council intends to appropriate the land for alternative planning purposes. If s.122 LGA 1972 is being utilised the minutes must record the resolution that the land is no longer required for the purpose for which it is currently appropriated.
- 38 Advertisements in accordance with s.122(2A) LGA 1972 or s.232(4)TCPA 1990 in respect of open space must give clear information and refer to the intended appropriation. Further, the Council's minutes must then record that any objections received have been duly considered.
- 39 Any decisions related to the appropriation of land would need to be taken by full Council.

#### *Consolidated Parking Order 2015*

- 40 The Council's Cheshire East Borough Council (Off-Street Parking Places) (Consolidated) Order 2015 (as varied) regulates the use of the Churchill Way and Duke Street car parks allowing the Council to set conditions of use and to charge for parking. The Order does not require the land or any portion of the land to be retained as a car park.
- 41 Neither Churchill Way car park nor Duke Street car park are defined in the Order with reference to the number of spaces available or defined by a car park plan. As such, should the proposals proceed, there would be no requirement to amend the Cheshire East Borough Council (Off-Street Parking Places) (Consolidated) Order 2015 (as varied).
- 42 In removing parking bays from the car parks the Council must give due regard to the Public Sector Equality Duty and also the effect that any removal is likely to have on groups with a protected characteristic.



## *Section 151 Officer/Finance*

- 43 It is assumed that the parking study undertaken is robust, accurate, and the findings have been endorsed by the services responsible for operating the car parks. Although sufficient alternative car parks will remain to accommodate any parking displaced, there is no guarantee that Council car parks will be the alternative. Therefore, there is a risk to the Council's financial position should existing car park users decide to use car parks less frequently, seek out lower tariff spaces or make greater use of any privately-operated car parks in Macclesfield. There is potential for modest savings in terms of reduced costs through reductions in Business Rates payable by the Council and the maintenance of the existing car parks but the removal of any machines deemed surplus will need to be factored in. These costs will need to be funded.
- 44 The proposed MTFS contains additional income from these two car parks, both in terms of inflation price increases and transformation savings, which may need to be reviewed.
- 45 If after further analysis it is determined that the car parks could be rationalised in favour of housing, then it would be expected that a full business case would be brought forward that would fully articulate the finance implications. The preferred mix of housing and delivery route identified by officers would have a significant impact on the financial implications. If market housing alone is determined to be the preferred option and the route to delivery is to be the production of a Planning Brief followed by a land sale, this would likely necessitate a financial outlay in the development of the brief and disposal costs, offset by a capital receipt from the land sale. If on the other hand, after considering various specific housing needs, the preferred redevelopment option required procurement, this would likely require a business case to identify how such development could be initially financed and procured, noting the difficulties faced with procuring via the Housing Framework to date.
- 46 Further consideration of financial implications would need to be considered in a formal decision taken by the Executive Director - Place before proceeding with any preferred route.

## *Policy*

- 47 It has already been set out that this proposal would align in principle with both the Cheshire East Local Plan Strategy and the Macclesfield Town Centre SRF. The recommended route set out in this report could potentially support the priorities of the [Corporate Plan](#) as follows:

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| <p><b>An open and enabling organisation</b></p> <p>Look at opportunities to bring more income into the borough</p> <p>Support a sustainable financial future for the council, through service development, improvement and transformation</p> | <p><b>A council which empowers and cares about people</b></p> <p>Protect and support our communities and safeguard children, adults at risk and families from abuse, neglect and exploitation.</p> | <p><b>A thriving and sustainable place</b></p> <p>A great place for people to live, work and visit.</p> <p>Welcoming, safe and clean neighbourhoods</p> <p>Thriving urban and rural economies with opportunities for all</p> |
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### *Equality, Diversity and Inclusion*

- 48 An Equality Impact Assessment (EIA) is being developed to consider the impacts of partial car park closures. This will be considered further before a formal decision is taken to proceed with disposal. It is anticipated that there will be no need to reduce disabled parking spaces available to the public.

### *Human Resources*

- 49 There are no specific human resources issues relating to this report. Officer capacity will need to be identified in various services to enable options for housing redevelopment to be considered and workloads will be dependent on the preferred mix of housing identified and the preferred delivery route.

### *Risk Management*

- 50 Risks will be largely dependent on the identified preferred mix of housing and the selected delivery route. At this stage potential risks have been identified as likely to fall within the following categories:

*i. Inability to swiftly deliver due to lack of officer resource*

Delivery may be delayed due to lack of capacity in several services which would need to be involved to drive forward delivery. It will be key to set a realistic programme of work which takes account of current pressures on staff.

*ii. Negative public reaction*

Car Parking is always an emotive subject. Perception of parking availability is often at odds with factual data. The public may raise objections despite the evidence which has been gathered to inform this

decision. Negative feedback can be mitigated by clear communication at appropriate times.

### *Rural Communities*

51 No implications specific to rural communities have been identified.

### *Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)*

52 It is not envisaged that the redevelopment of sites for housing would have specific implications for young people. This may however be dependent on the preferred mix of housing taken forward.

### *Public Health*

53 Housing quality is a key social determinant for a person's mental and physical health. The intention is that various housing mixes will be considered including the potential to provide new temporary accommodation for homeless people to replace an existing facility no longer considered fit for purpose. The implications for health will depend on the mix of housing taken forward. Overall, however, it is anticipated that whatever housing mix and delivery route is selected the Council will have powers to ensure an acceptable quality of housing is developed which provides a good standard of modern accommodation.

### *Climate Change*

54 Any housing on this site would need to be built to conform with current building regulations which seek to ensure modern homes are energy efficient with lower carbon emissions than older homes. Further, supporting homes in town centre locations, where public transport is more readily available and services and amenities are within easy walking distance, provides opportunities for residents to live in a manner which helps reduce their carbon footprint and contribute to tackling climate change.

| <b>Access to Information</b> |                                                                                                      |
|------------------------------|------------------------------------------------------------------------------------------------------|
| Contact Officer:             | Jo Wise<br>Jo.wise@cheshireeast.gov.uk                                                               |
| Appendices:                  | Appendix 1 Macclesfield Car Park Feasibility Study<br>Final Report                                   |
| Background<br>Papers:        | <a href="#">Cabinet decision – approval of Macclesfield SRF<br/>macclesfield-tc-srf-final-151019</a> |