

Application No: 15/5676M

Location: BARRACKS MILL, BLACK LANE, MACCLESFIELD, CHESHIRE

Proposal: Outline planning application with all matters reserved except for access for the demolition of existing buildings and the erection of three units with mezzanine floors for Class A1 retail use (c12,000 square metres GIA) plus external sales area; one food retail unit (Class A1) including mezzanine (c1,200 square metres GIA); two units for Class A1/A3/A5 uses (c450 square metres GIA); and works to create new access from The Silk Road, pedestrian/cycle bridge, car parking, servicing facilities and associated works

Applicant: Cedar Invest Limited

Expiry Date: 15-Mar-2016

SUMMARY:

This proposal would bring economic benefits through the delivery of new retail jobs, investment in the area and by bringing a vacant brownfield site into viable use on one of the key gateways to Macclesfield, which is one of the principal growth areas of the Borough where national, local and emerging plan policies supports sustainable development.

The proposal to redevelop the site for uses other than industrial or conventional employment uses is contrary to policy. However, it has been accepted that this site is unlikely to contribute towards existing employment land in the borough. The Council's own evidence weighs against any argument for retention of this site for employment land and this is supported by the fact that the site is assessed as being a suitable brownfield site for housing within the urban potential study and therefore the principle of losing this site for employment purposes has already been acknowledged.

The NPPF indicates that planning applications for out of town centre retail development that is not in accordance with an up to date development plan should be refused permission where they fail to satisfy the sequential approach or are likely to result in a significant adverse impact.

The applicant has demonstrated that there are no sequentially preferable sites for this out of centre retail proposal. The Council's retail advisors have identified that whilst there is an above average number of vacant units within the town centre, the impact of the proposed scheme will not be 'significantly adverse.' The analysis has also considered the impact upon the identified investment schemes within Macclesfield town centre but have concluded that there are qualitative differences between them and with the right conditions attached to a consent, the scheme will not attract retailers that would otherwise have been attracted to the

town centre and that the planned investments within Macclesfield town centre will enhance and improve the overall vitality and viability of the centre.

Therefore it is concluded that the impact of the proposal on the vitality and viability of Macclesfield town centre will be adverse but not significant adverse even in the worst case cumulative impact scenario.

With examples of the likely 'out-of-centre' retailers that could occupy the proposed units, the Council has a better understanding of the proposal and its likely impact on the town centre. The adverse impact has to be balanced against the benefits of the proposal such as regeneration of a derelict site and considered with all other material considerations such as compliance with the development plan in a planning balance exercise.

Taking into account the site abnormal costs, which comprise of; demolition and site clearance; remediation; provision of suitable access; the value of developing the site for potential alternatives would make the scheme less attractive to the developer / landowner and would potentially risk the regeneration of the site. The proposed retail scheme would be able to generate a positive value that is attractive to the developer / landowner and would enable the redevelopment of this gateway brownfield site. In light of the submitted viability appraisal and in addition to the earlier considerations regarding employment land, it is not considered that a refusal could be sustained on the loss of employment land in this case.

In terms of landscaping and trees, the treatment of boundaries will require careful attention at the detailed reserved matters stage when scale, landscaping, layout and appearance are detailed. Some of the trees on the site will require removal to facilitate the development; however, they are in relatively poor condition. In this regard their removal will not have a significant impact upon the wider amenity of the area. It is considered that these losses can be satisfactorily mitigated by new landscaping within the site.

The current access to the site is from Black Lane which then links to Hurdsfield Road at an existing traffic signal junction. The proposed main access to the site is from the Silk Road, as this section of the A523 is a dual carriageway the access will be a left in and left out arrangement only. There are traffic impacts associated with this development proposal but having regard of the mitigation measures proposed, the Council's Head of Strategic Infrastructure (HSI – Highways) does not consider that a 'severe' impact refusal can be supported and does not raise objections to the application. The scheme is found to be acceptable in terms of its impacts on the local highway network (subject to the mitigation proposed) and the parking and pedestrian facilities would be sufficient to accommodate the proposed development subject to a scheme for pedestrian signage to promote links with the town centre.

The proposal is compatible with the surrounding development and the indicative design, scale and form of the buildings would not appear incongruous within its context subject to the submission of appropriate reserved matters. The impact of the proposal on environmental considerations relating to flooding, drainage, land contamination (subject to further investigations) and ecology would be acceptable.

The impact on neighbouring residential amenity would be acceptable owing to the present lawful use of the site, separation distances and having regard to the context of the area where there are retail, commercial and industrial uses.

On this basis, the proposal is for sustainable development which would bring environmental, economic and social benefits.

The proposal is therefore considered to be acceptable in the context of the relevant policies of the adopted Macclesfield Borough Local Plan and advice contained within the NPPF and emerging local policy. The application is therefore recommended for approval.

RECOMMENDATION: APPROVE with Conditions

PROPOSAL:

This application seeks outline planning permission with details of access for the demolition of the existing buildings and the erection of three units with mezzanine floors for Class A1 retail use (c12,000 square metres gross internal floor area) plus external sales area; one food retail unit (Class A1) including mezzanine (c1200 square metres gross internal floor area); two units for Class A1/A3/A5 uses (c450 square metres GIA); and works to create new access from The Silk Road, pedestrian/cycle bridge, car parking, servicing facilities and associated works, Matters relating to appearance, landscaping, layout and scale are reserved for approval at a later stage.

The proposed units would be distributed as follows:

Unit 1 – Potential end user ‘The Range’ - 6,504 square metres gross floorspace
Unit 2 – Potential end user ‘Dunelm’ - 3,345 square metres gross floorspace
Unit 3 – Potential end user ‘Sports Direct’ - 1,862 square metres gross floorspace
Unit 4 – Potential end user (end user not specified - convenience store (without the mezzanine) or open A1 use)) 1,170 square metres gross floorspace
A3 Coffee Pod – 167 Sq.m
Fast Food Drive through – 279 Sq.m

SITE DESCRIPTION:

This application relates to the site known as ‘Barracks Mill’, located to the east of The Silk Road (A523) directly to the north of the existing Tesco Store and car park which lies on the opposite side of the River Bollin and Middlewood Way, Macclesfield.

The site covers an area of 2.74 hectares in size and is located outside of the boundary of Macclesfield Town Centre which is located to the west. The site falls within an Existing Employment Area as defined in the Macclesfield Borough Local Plan.

With reference to the Framework, and guidance which supports it, the status of the site is defined as ‘out of centre’ being approximately 650 metres walking distance from the town centre’s Prime Shopping area. It is also separated off from it by the topography of the land, major highway and other environmental barriers.

The site consists of a former factory, which was damaged by a fire in 2004. There are still a number of buildings and structures in a derelict state. The site occupies a prominent position and is an important gateway location to the town (from the north). The site is presently accessed via Black Lane and Withyfold Drive. There are some residential properties on Black Lane and Withyfold Drive, to the east of the site. Alongside the River Bollin runs the Middlewood Way, which is used by walkers, cyclists and horse riders.

RELEVANT HISTORY:

08/0409P - DEMOLITION OF EXISTING FACTORIES AND ERECTION OF A RETAIL DEVELOPMENT – Finally Disposed of 02-Jun-2011

79925P - CHANGE OF USE OF PART OF FACTORY TO RETAIL SHOP – Approved 18-Jan-1995

97/1157P - DEMOLITION OF VACANT BUILDINGS & ERECTION OF CLASS A1 RETAIL PARK DEVELOPMENT & ASSOCIATED ALTERATIONS TO BLACK LANE – Note determined

12/0112M - Part detailed/part outline application for a replacement Tesco superstore and the erection of retail warehouse units. Detailed permission is sought for the demolition of buildings on the former Barracks Mill site to facilitate the development of a Tesco superstore of 14,325 sq. m gross internal area and a roundabout on the Silk Road, vehicles and pedestrian bridges over the River Bollin, a petrol filling station and associated internal road, car parking areas, servicing and landscaping. Outline permission is sought for a retail warehouse building and associated parking and servicing on the site of the existing Tesco store. Approval of details is sought for means of access, with all other matters reserved – Withdrawn 05-Dec-2013

NATIONAL & LOCAL POLICY

National Policy:

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

Of particular relevance are paragraphs 7, 9, 14, 17, 18, 19, 21, 26, 27, 28, 56, 61, 65, 109, 111 and 118.

Development Plan:

The Development Plan for this area is the adopted Macclesfield Borough Local Plan. The relevant Saved Policies are:-

Macclesfield Borough Local Plan Policy

Environment

NE9 Protection of River Corridors

NE10 Conservation of River Bollin

NE11 Nature Conservation

NE15 Create or enhance habitats in reclamation schemes, public open spaces, education land and other land held by LPA's

BE1 Design Guidance

BE21-BE24 Archaeology

Recreation & Tourism

- RT5 Minimum standards for open space
- RT7 Cycleways, bridleways and footpaths

Housing

- H13 Protecting Residential Areas

Employment

- E1 Retention of Employment Land
- E2 Retail Development on Employment Land
- E4 Mixed use areas

Transport

- T1 General transportation policy
- T2 Public transport
- T3 Improve conditions for pedestrians
- T4 Provision for people with restricted mobility
- T5 Provision for cyclists

Shopping

- S1 Town centre shopping development
- S2 New shopping, Leisure and Entertainment Developments
- S3 Congleton Road Development Site
- S4 Local Shopping Centres
- S5 Class A1 Shops
- S7 New Local Shops

Implementation

- IMP1 Development sites
- IMP2 Transport Measures

Development Control

- DC1 Design – New Build
- DC3 Amenity
- DC5 Measures to improve natural surveillance and reduce crime
- DC6 Circulation & Access
- DC8 Landscaping
- DC9 Tree Protection
- DC13-DC14 Noise
- DC15-DC16 Provision of facilities
- DC17 Water resources
- DC18 Sustainable urban drainage systems
- DC20 Contamination
- DC50 Shop Canopies, Awnings etc
- DC54 Restaurants, Cafes and Hot Food Takeaways
- DC63 Contamination

Cheshire East Local Plan Strategy Submission Version:

Policy MP 1 Presumption in Favour of Sustainable Development
Policy PG 2 Settlement Hierarchy
Policy PG 6 Spatial Distribution of Development
Policy SD 1 Sustainable Development in Cheshire East
Policy SD 2 Sustainable Development Principles
Policy IN 1 Infrastructure
Policy IN 2 Developer Contributions
Policy EG 1 Economic Prosperity
Policy EG 3 Existing and Allocated Employment Sites
Policy EG 5 Promoting a Town Centre First Approach to Retail and Commerce
Policy SE 1 Design
Policy SE 2 Efficient Use of Land
Policy SE 3 Biodiversity and Geodiversity
Policy SE 5 Trees, Hedgerows and Woodland
Policy SE 6 Green Infrastructure
Policy SE 7 The Historic Environment
Policy SE 8 Renewable and Low Carbon Energy
Policy SE 9 Energy Efficient Development
Policy SE 13 Flood Risk and Water Management
Policy CO 1 Sustainable Travel and Transport
Policy CO 2 Enabling Business Growth Through Transport Infrastructure
Policy CO 4 Travel Plans and Transport Assessments
Strategic Location SL 4 Central Macclesfield

Other Material Considerations:

- The Cheshire East Economic Development Strategy (June 2011);
- The Local Plan Strategy Employment Background Paper (March 2014);
- The Planning Practice Guidance (March 2014)
- EC Habitats Directive and the Conservation (Natural Habitats etc.) Regulations 2010
- Cheshire Retail Study Update 2011
- Macclesfield Town Centre Economic Masterplan 2010
- Macclesfield Town Vision 2012
- WYG update 2016
- The Town and Country Planning (Environmental Impact Assessment) Regulations 2011.
- Ministerial Statement of 23 March 2011 on "Planning for Growth"
- Relevant legislation also includes the EC Habitats Directive and the
- Conservation (Natural Habitats etc.) Regulations 2010.

CONSULTATIONS:

Cheshire Archaeology Planning Advisory Service Cheshire Shared Services: No objection subject to a condition securing a programme of archaeological work in accordance with a written scheme of investigation.

Highways: No objection subject to Grampian condition to provide the site access works and also the road improvement works on the Silk Road.

Environmental Protection: No objection, subject to conditions / informatives requiring submission of a Construction Environmental Management Plan, a restriction on hours of use, submission of details of external lighting, submission of details of noise mitigation for fixed plant etc, submission of a travel plan, submission of a low emission strategy, travel plan, dust control strategy, electric vehicle charging points and a further contaminated land survey.

Environment Agency: No objection subject to conditions for remediation of unsuspected contamination and surface water drainage.

Flood Risk Officer: No objection subject to submission of a surface water drainage scheme.

National Grid: No objection but note there is a pylon apparatus within the site.

United Utilities: No objection subject to drainage conditions. It is also noted that there is a public sewer that crosses the site. A modification of the site layout, or a diversion of the affected public sewer at the applicant's expense, may be necessary.

MACCLESFIELD TOWN COUNCIL:

Object on the following grounds:

That this committee objects to the application on the due to the expected negative economic and social impact on the town centre, its vitality and viability, serious highways concerns and the potential negative impact on the amenity of residents based on the following grounds:

- i. Macclesfield Borough Local Plan Policy S2 1 – need for development away from the town centre is unproven
- ii. Macclesfield Borough Local Plan Policy S2 2 – there are available units within the town centre for the suggested business types as well as existing representation of the proposed businesses.
- iii. Macclesfield Borough Local Plan Policy S2 2(i) – there is deep concern relating to the potential damage, identified in the application, such a development will have on the vitality and vitality of the town centre.
- iv. Macclesfield Borough Local Plan Policy S2 2(ii) – the proposal will effectively be only accessible by car
- v. Macclesfield Borough Local Plan Policy S2 2(iii) – Existing properties' amenity will be adversely impacted in the form of additional heavy goods vehicles on small back road access (Black Lane), which was deemed unfit for busses; and the screening of residential properties.
- vi. Macclesfield Borough Local Plan Policy S2 3(i) – inadequate studies carried out to provide appropriate information on which to base a decision.

- vii. Macclesfield Borough Local Plan Policy S2 3(ii) – inadequate studies carried out to provide appropriate information on which to base a decision.
- viii. Macclesfield Borough Local Plan Policy S2 4 – the proposals do not restrict the range of goods to be sold, such that the anticipated occupancy will have a direct negative impact on existing businesses and town centre vitality and viability.
- ix. Macclesfield Borough Local Plan Policy DC1 – the proposal is not sympathetic to the character of the surrounding street scene
- x. Macclesfield Borough Local Plan Policy DC3 – the proposals will significantly injure the amenity of the nearby residential properties in terms of delivery access by heavy goods vehicles via Black Lane, which is unsuitable for such an access.
- xi. Macclesfield Borough Local Plan Policy DC3 4 and 5 – the proposals will significantly injure the amenity of the nearby residential properties in terms of additional pollution, noise, vibration and fumes from cars and delivery vehicles.
- xii. Macclesfield Borough Local Plan Policy DC5 – the proposals will result in anti-social behaviour on the car park
- xiii. Macclesfield Borough Local Plan Policy DC6 1, 2, 3, 4 and 5 – the proposals do not appropriately account for safe access, particularly on Black Lane and the potential impact on the A523 with slowing and emerging traffic. Buses stopped using Black Lane due to access and safety concerns. Black Lane is too small for two way traffic involving heavy goods vehicles for the delivery access as proposed (this would result in HGV's reversing). Access via Black Lane could result in the hindrance of emergency vehicle access.
- xiv. Macclesfield Borough Local Plan Policy DC8 – the proposals do not adequately address the landscaping policies of the local plan.
- xv. That such a development is likely to negatively impact on the ability for the town centre to attract inward investment, thereby adversely affecting the vitality and viability of the town centre.

REPRESENTATIONS:

Representations have been received from over 24 addresses objecting to this application. This includes submissions made by Macclesfield Civic Society, Cheshire East Council's Regeneration Section, Cllr Dooley and Savills acting on behalf of the Eskmuir Securities Limited who operate the Grosvenor Shopping Centre. The grounds for objection are summarised as follows:

- Impact on the vitality and viability of Macclesfield Town Centre#
- Breaches the 'Town Centre First' approach
- There is no quantitative or qualitative retail need
- Inadequacies in submitted retail information
- Diversion of trade from the town centre

- Proposal will provide uncertainty amongst existing traders
- Loss of employment land
- Size and scale of retail park too large
- Contrary to national, local and emerging policies
- Council confirmed development was not EIA
- Cumulative impact of this proposal with other out of centre retail proposals
- Impact on the local highway network and highway safety concerns
- Site should be developed for residential
- Impact on the Middlewood Way
- Contamination
- Will impact on town centre investment
- Account needs to be given to SMDA proposals
- Retail study is out of date
- Opportunities to enhance the landscape should be made
- Needs to be an archaeological assessment
- Viability case is not robust
- Design fails to respect the Town
- Outlook from neighbouring properties will be poor
- Anti social behaviour
- There is no clarity on type of retail being sought
- Pollution
- Need further opportunity to consider retail impact assessment and viability of the scheme
- Viability appraisal needs to be fully disclosed

A letter of support has been received from a neighbouring business on the grounds that it would bring a derelict sit into re-use with better access.

OFFICER APPRAISAL:

ECONOMIC SUSTAINABILITY

Principle of Development

This is an outline application for the demolition of a number existing buildings and the construction of four new retail units, all within a single building mass, plus the erection of a fast food outlet and coffee outlet. The application also includes the provision of a new access from the Silk Road and the provision of 324 car parking spaces.

Macclesfield is identified as a principal town in Cheshire East, a main shopping centre and an important employment centre. The Council has previously granted consent for a planning application (ref; 12/1212M), which seeks to improve the shopping and leisure provision via a seamless extension of the town centre. The scheme also includes a cinema and various leisure based facilities. Such town centre redevelopment is an important strategic development site and is considered key to achieving the sustained regeneration of Macclesfield town centre by providing a mix of retail, housing and leisure facilities and a new high quality public realm.

With regard to decision making, planning applications have to be determined in accordance with the development plan. The Framework (Annex 1) makes it clear that development plan policies drafted before the Framework was published that are consistent with the guidance are a material consideration. Therefore, Local Plan saved policies S1 to S7 (excluding S6) are a material consideration as they are consistent with the Framework

The NPPF indicates that there is a presumption in favour of sustainable development which means that LPAs should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies within the Framework taken as a whole.

The proposals subject of this application relate to a major retail scheme of some 12,881 square metres floor space in an out of centre location which is allocated as part of a wider employment use. As such, the key issues to consider in relation to principle of the proposed development are:

- 1) Loss of an allocated employment site
- 2) Whether there is sufficient retail capacity within the catchment area to accommodate the development.
- 3) The availability of any other sequentially better sites?
- 4) The impact of the retail development upon the vitality and viability of the town centre?
- 5) Any other benefits to weigh in the balance

Loss of Employment

The Barracks Mill site is identified on the Local Plan Proposals Map as being within an 'Existing Employment Area', where policies E1 and E2 indicate that proposals for retail development will not be permitted. The site is vacant, but with a previous industrial use. It is also covered by Policy E4 in the Macclesfield Local Plan as an existing employment area. The site has no designation as yet in the emerging Local Plan – it may well do in the second stage site allocations - but it does not feature in the current evidence base.

Policies E1, E2 and EG3 seek to retain both existing and proposed employment areas for employment purposes to provide a choice of employment land in the Borough. As such, there is a presumption that the site will be retained for employment purposes. This proposal therefore constitutes a departure from the Development Plan.

More specifically, Policy EG3 of the emerging Local Plan Strategy advises that existing employment sites will be protected for employment use unless the:

- i. Premises are causing significant nuisance or environmental problems that could not be mitigated; or
- ii. The site is no longer suitable or viable for employment use; and
 - a. There is no potential for modernisation or alternative employment uses; and
 - b. No other occupiers can be found.

The policy also advises that *“all opportunities must be explored to incorporate an element of employment development as part of a mixed use scheme”*.

However, when the Council looked at a previous application for retail development on the site in 2012 (planning ref; 12/0112M), there was an oversupply of employment land in the borough, particularly in the Tytherington area, and the amount of vacant office floorspace meant that it was unlikely that office development on the site would come forward. The findings of the Macclesfield Economic Plan and Masterplan and the Annual Monitoring Report 2009 together with marketing exercises undertaken at other employment sites all supported this view.

Further, in 2012 the Council instructed that an Employment Land Review be carried out in November 2012 by Arup & Partners and identified the nature and scale of employment land needed in Cheshire East to meet its sub-regional policy requirement and local business needs. This concluded that there was adequate Employment Land available across the District. This site was assessed as part of the review and forms part of the underpinnings for the allocation of employment land in the local plan. Within the Employment Land Review it was concluded that the site should be considered for non-employment uses in view of its various constraints. Consequently the site was not factored into the existing supply of employment land in Macclesfield.

Para 22 of the NPPF 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. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities”*.

In terms of the current position with regards to employment land, it is clear from the recent work undertaken as part the emerging local plan that the general position is that the Council needs additional employment land across the Borough (380ha additional). However, it has been accepted that this site is unlikely to contribute towards it. Hence, the Council's own evidence weighs against any argument for retention of this site for employment land. This is further emphasised by the fact that the site is assessed as being a suitable brownfield site for housing within the urban potential study and therefore the principle of losing this site for employment purposes has already been factored in.

Further to this, whilst the latter part of policy EG3 of the emerging Local Plan Strategy references that opportunities to incorporate an element of employment development as part of a mixed use scheme should be explored, this is not a requirement of the framework and the policy is not yet formally adopted. Additionally, the footnote / explanatory text to the policy recommends that to demonstrate that no other occupiers can be found, the site should be marketed for a period of 2 years. Such marketing has not been carried out; however, this requirement does not feature in the framework or Macclesfield Local Plan either.

Viability

Added to the above employment considerations, the application has been supported by a financial viability appraisal which includes an assessment of the potential land uses for the

site comprising of employment uses (B1, B2 and B8) and redevelopment of the site for residential use. The appraisal considered the planning policy context, the constraints of the site, access issues and remediation of the site. This has been independently assessed by one of WYG's consultants.

It is accepted that the site is a derelict industrial site and that comprehensive clearance and remediation of the land will be required prior to the commencement of any regenerative scheme. The estimated costs for such works are calculated to be in the order of £2.2 million to £2.4 million which would translate to £545,000 per acre to £606,000 per acre.

With respect to the access, the current access arrangement is poor and not particularly suited to industrial employment uses. In order to facilitate the redevelopment of the site, a new access is proposed directly from the Silk Road and it is argued by the applicant that this is a *"prerequisite of attracting new commercial occupiers to the site, or the purchases of new residential dwellings"*. The financial cost of providing the proposed new access is between £1 million to £1.2 million, equating to a sum of £250,000 per acre to £300,000 per acre.

The submitted appraisal shows that the potential options of a) redeveloping the site for employment re-use and / or b) redeveloping the site for residential use would create a negative site value. There is the real prospect that if the developer does not yield a reasonable return from the site, then the development will not be capable of being delivered.

Taking into account the site abnormal costs, which comprise of; demolition and site clearance; remediation; provision of suitable access; the GDV of developing the site for potential alternatives would fall below the 17.5-20% which would make the scheme less attractive to the developer / landowner. The proposed retail scheme would be able to generate a positive GDV that is attractive to the developer / landowner and would enable the redevelopment of this gateway brownfield site.

The Council's financial consultant has undertaken his own modelling exercise based on the 2 commercial and 1 residential scenarios put forward by the applicant. His findings have led him to conclude that it is clear that the viability of the development for the alternative scheme is suffering due to the scale of abnormalities required to deliver development but also the market values for the commercial scheme in this location are insufficient to outweigh the BCIS cost base (the build cost) to deliver the scheme. The specific conclusions are as follows:

- Commercial Scenario 1 is unviable
- Commercial Scenario 2 is unviable.
- Residential:
 - A 30% affordable housing policy compliant scheme is unviable at either the base sales value
 - At 15% affordable housing the scheme is unviable unless evidence of a lower benchmark land value can be adopted (based on either a red book value or site deductibles equating to a lower benchmark). Neither of these requirements are known at this stage and therefore cannot be guaranteed.
 - If further S106 contributions are required, this will have to be at the expense of Affordable Housing.

In light of the submitted viability appraisal and in addition to the earlier considerations regarding employment land, it is not considered that a refusal could be sustained on the loss of employment land in this case. This has been confirmed by the Head of Planning Strategy and the Council's independent consultant has confirmed that the viability of developing the site for alternative uses would also suffer. The consultant, however, has confirmed that a residential scheme with no planning obligations or affordable housing may be able to generate a better site value that would give a better return than presently modelled. However, this would be at the expense of sustainable development and therefore any positives of such a scheme would be reduced.

The NPPF requires Local Planning Authorities to adopt a positive and constructive approach towards planning applications for economic development. Planning applications that encourage sustainable economic development should be treated favourably and this view is further reinforced in Policy EG1 of the Council's emerging Local Plan Strategy Submission Version. Taking into account the employment benefits and investment to the area that this scheme would bring, and that it would bring a redundant brownfield site into viable use, the scheme is found to be acceptable in this regard and material considerations therefore outweigh the conflict with the employment policies of the development plan.

Retail Development

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. Following officers concern regarding the potential impact on Macclesfield Town Centre, the Council has sought specialist retail advice from two independent consultants on this matter. The instructed consultants were Martin Tonks (MT Town Planning) and then latterly WYG Planning Consultants. Both have provided detailed advice to assist the Council in assessing the retail impact that this scheme would have on Macclesfield Town Centre.

The applicant has advised that the scheme has been designed and configured in anticipation of the units being occupied by out of centre retailers such as The Range, Dunelm, Sports Direct and a convenience store (without the mezzanine) or open A1 use in Unit 4. However, it is important for Members to note that it cannot be guaranteed that these 3 retailers will be the exact occupiers of the proposed units if the scheme were to be approved and subsequently implemented. Nonetheless, these named operators aid the understanding of the proposal and the types of 'out-of-centre' retailers that the proposal is intended to accommodate and therefore its likely impact upon Macclesfield Town Centre.

Town centres comprise of individual shops and in numerous appeal decisions inspectors have raised the concern of store closures, increased vacancies and diminished diversity in

arriving at their conclusions. No development is going to compete with an entire shopping centre just elements of it and this approach helps our understanding of the impacts and can inform (or test) assumptions the trade diversions are based upon as NPPG advises *“As a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector... Retail uses tend to compete with their most comparable competitive facilities.”*

The council has expressed concern regarding the scale of the proposal in relation to the town centre. In response, the applicant has stated that

“The proposed development represents less than 15% of total floorspace... The scale of the proposal is smaller than Lyme Green Retail Park.”

However, in terms of the comparison goods floorspace in the town centre with which the proposal will compete directly the 12,881 sq m represents 30% of the town centre comparison goods floorspace in the town centre recorded in the 2016 WYG Retail Study. It is therefore a significant development and as such its impact must be carefully considered, hence why the Council has tested the scheme with 2 retail consultants. In response, the applicant's retail consultant (ANA) has pointed out that much of the floorspace proposed is at mezzanine level which doesn't trade / turnover quite so well. In addition, the kind of target occupiers are discount orientated. Whilst this may be mainly the case the list of potential users does include Sports Direct who are present in the town and the use of unit 4 could include comparison goods such as clothing, footwear and fashion accessories.

ANA further advise it is because *“the application makes provision for the installation of mezzanine floors that increases the quantum of floorspace to the level proposed. End users may not require mezzanine space and therefore there is a prospect that mezzanine space throughout the whole development will not be provided.”* ANA therefore consider that the implementation of the mezzanine element is a 'worst case' scenario and the impact assessment has been undertaken on this basis. In addition they advise *“Sales areas at mezzanine level generally trade at a level below the average sales density typical of the retailer. However, within the Retail Assessment we have assumed that the sales densities apply to all floorspace and it does not distinguish between the ground floor sales area and mezzanine sales area.”*

The Council's Retail Consultants agree with this approach as it assesses impact on a worst case scenario.

The Sequential Approach to Site Selection

During previous discussions, the Council questioned whether there were any alternative out-of-centre sites that had superior accessibility to the application site and were therefore sequentially superior. Drawing upon the Council's Urban Capacity Study (UCS) that forms part of the evidence base for the emerging Local Plan, ANA conclude *“the application site is the only site of significant scale recognised to have the potential for development close to the town centre within the plan period”*. The applicant looked at three other large sites (over 1 hectare) in the UCS including the King's School (site ref 4302), BAS House (site ref 3115) and the Clowes Street (Gradus) site (ref 3090) but none of these sites are available for development of this type.

In relation to the sequential approach to development and noting recent Judgments and appeal precedent in respect of the application of the test, WYG are unaware of any site within the wider area which is available and suitable to accommodate the application proposal. Both of the Council's retail consultants have confirmed that the proposal accords with the requirements of the sequential test set out in Policy S2 of the Macclesfield Local Plan and paragraph 24 of the NPPF. It therefore appears that the sequential test is satisfied by the applicant.

Impact Methodology

In the 2016 Retail Study Update, WYG identify a much lower turnover for the town centre (£166.9m excluding inflow) than ANA (£237.87excluding inflow). Conversely WYG identify a much higher turnover for Lyme Green RP (£51.8m excluding inflow) than ANA (£11.93m excluding inflow). WYG have asked respondents where 'they last shopped' for the various goods in their household survey which they consider more accurate than the approach now adopted by ANA. ANA suggest that it doesn't matter *"If expenditure in a specific centre such as Macclesfield Town Centre is lower (for whatever reason), it must follow, in our methodology that trade diversion from that centre will be lower."*

Whilst ANA's household survey has a bigger sample in the study area (zones 1 and 2 of WYG's study area), the Council agrees with WYG's approach. The council also disagree with ANA's suggestion that trade diversion is proportional to market share. Whilst the market share is a factor to be taken into consideration in trade draw / diversion calculations there are other considerations such as the proximity of the nearest competing facilities to the proposal and the NPPG 'like affects like' principle. In addition, the turnover of the proposal is fixed and trade draw / diversions to it should be fairly rigid and not necessarily adjusted proportionally to any adjustments in market share. There are therefore two concerns with ANA's revised impact assessment:

1. That it continues to overstate the turnover of the town centre and understate the turnover of Lyme Green RP; and,
2. That trade diversions to the proposal can't simply be adjusted proportionally to adjustments in market shares.

Owing to this, the Councils Retail Consultants have undertaken some simple sensitivity testing of ANA's impact assessment to take the above into account and this is described later.

In addition to the Castle Street proposals ANA have now taken account of the SMDA Asda commitment, The Tesco Hibel Road mezzanine and the Handforth Dean Next proposals in their supplementary impact assessment. The 2011 WYG Study identifies two commitments at Silk Retail Park for mezzanine floorspace. ANA have made a greater allowance for turnover in the Tesco mezzanine than WYG and this offsets the omission of the two aforementioned commitments and this has been taken into account in the sensitivity described later.

Martin Tonks considers that the other commitments divert too little comparison goods trade from Macclesfield town centre (if this was proportional to market shares it should be around 32.6% for the two supermarket proposals). It is also noted that ANA base the trade draw for the Handforth Dean Next proposals on a number of sources including the 2011 WYG Study

and assume 65% of trade is drawn from outside their study area. However, in the 2016 WYG Study, it is assumed that c. 65% of trade will be drawn from their (wider) study area. Martin Tonks has therefore adjusted the trade diversion from Macclesfield town centre to Handforth Dean to 10% in the council's sensitivity assessment. Whilst there is no Next store in the town centre to divert trade from, the Handforth Dean proposal is a Next Home Store Format with a considerable amount of floorspace given over to soft furnishings and non-bulky household goods (homewares) which will compete directly with nearby shopping centres including Macclesfield.

NPPG Health Check

The 2016 WYG Study also contains a health check against which to assess the impact (including cumulative) of the proposal in the absence of a health check carried out by the applicant. The Study finds a worrying decrease in market share within the study area for the town centre which is partially accounted for by a significant increase in market share for Lyme Green RP. WYG don't identify any current capacity to support new comparison goods floorspace in Macclesfield although they consider that with a small increase in market share there will be future capacity. Conversely, WYG do find considerable current and future capacity for convenience goods floorspace arising mainly from overtrading in existing foodstores in the town.

In the health check, it is concluded that for Macclesfield Town Centre, *"The vacancy rate is well above the national average"* (contrary to ANA's observations) and *"rent levels remain low in the town centre and yields increasing suggesting a lack of confidence in the town."* WYG note the new retail and leisure schemes planned for the town centre and their concluding summary is that *"Overall, whilst there are some positive signs of health, the centre does need intervention to address its existing deficiencies if it is to continue to remain a vital and viable centre."* The Executive Summary goes on to state that:

"The health of Macclesfield town centre has also declined in recent years. The centre has a number of weaknesses, including a high vacancy rate and a lack of modern format units. Accordingly, we consider further retail and leisure development in a town centre location could assist in strengthening the position of the town centre."

The Council's retail consultant has tested three impact scenarios and in the worst case scenario the proposal had a solus impact of between 8.9% and 12.5% on the comparison goods turnover of the town centre and a cumulative impact of between 12.6% and 17.6%. In a weak centre these impact levels would probably be 'significant adverse' but the most recent retail study carried out by WYG has not concluded that Macclesfield is a weak centre. Given scenario 3 is unlikely to happen, it is considered that the adverse cumulative impacts of the other scenarios on the vitality and viability of the town centre are unlikely to be significant adverse.

Impact Assessment

Whilst there are some reservations about the convenience goods element of the proposal diverting too little trade from 'other shops' in Macclesfield town centre (if unit 4 is occupied by a foodstore), WYG do find considerable current and future capacity for convenience goods floorspace in the town in their 2016 Study which supports the view that unit 4 trading as a

convenience store would not have a significant adverse affect on the town centre. The remaining concern is therefore the comparison goods element, The Councils does have an indication of the likely named occupiers for all but unit 4 which gives the council a better understanding of the potential impacts that similar out of centre retailers may have on the town centre. As stated earlier, because of concerns about some of the assumptions in the ANA impact assessment, both of the Council's retail consultants have undertaken a sensitivity impact assessment.

Sensitivity Impact Assessment

The sensitivity impact assessment carried out by Martin Tonks has three scenarios and in each scenario, the solus and cumulative impact of the proposal is tested on the turnover of the town centre in 2020 as identified by ANA (c. £300m post Castle St development) and also a lower town centre turnover extracted from the 2016 WYG Study (c. £215m). As previously indicated the WYG approach is preferred to identifying market share based on a question that asks respondents which centre they last visited to purchase seven separate types of comparison goods. However, the ANA household survey had a bigger sample in the immediate Macclesfield catchment therefore should be more statistically reliable. The future turnover of Macclesfield town centre is therefore likely to be somewhere between the WYG (£215m) and ANA (£300m) assessments which can perhaps be regarded as a worst and best case scenario.

The first scenario is based upon ANA's £14.5m trade diversion from the town centre that results in a solus impact of between 4.8% and 6.8% on the town centre depending upon the overall turnover of the town centre that is used (ANA or WYG's). When the cumulative impact of the commitments is included the impact on the town centre increases to 7.9% (ANA) or 11.0% (WYG).

In the second scenario the trade diversion from the town centre to the proposal is increased to 70% to reflect the market share of the town centre in the most populated of ANA's zones South Macclesfield (zone 2). This increases the solus impact to between 6.1% (ANA) and 8.5% (WYG) on the town centre. When the cumulative impact of the commitments is included the impact on the town centre increases to 9.7% (ANA) or 13.6% (WYG).

Finally, in the third scenario the turnover of the proposal using ANA's worst case scenario of a sales density of £3,500 per sq m in all the comparison goods floorspace in the proposal is increased. Again, assuming trade diversion from the town centre is 70% this increases the solus impact to between 8.9% (ANA) and 12.5% (WYG) on the town centre. When the cumulative impact of the commitments is included the impact on the town centre increases to 12.6% (ANA) or 17.6% (WYG).

The third scenario is a worst case scenario as, given the conditions now offered, the proposal is unlikely to turnover at this level or divert 70% of its turnover from the town centre and not all the commitments are likely to be implemented. What this shows is that even in this worst case scenario the cumulative impact on the comparison goods turnover of the town centre is below 20% which has been regarded by PINS in recent appeals as the level of impact which vital and viable town centres such as Macclesfield can withstand before it is likely to be significant adverse.

In looking at this application specifically, WYG have undertaken a sensitivity analysis based on comparison goods impact is of primary relevance where as Martin Tonks includes convenience as well and also extends further than the primary area and for that reason, the trade diversion in the three scenarios run by Martin Tonks are significantly higher than that which would happen in practice. WYG instead have calculated that the cumulative impact arising at Macclesfield town centre when taking account of the commitments and the proposed development equates to a -11.4% trade diversion impact (£14.4m) which would be lower still if it was isolated to the Primary Shopping Area.

As a more realistic assessment, WYG consider that with conditions controlling goods for sale and a limit on retail floorspace, in practice the trade diversion of the cumulative impact on the town centre would be lower still at approximately 9.6%.

Impact on the Vitality and Viability of Macclesfield Town Centre

The 2016 WYG Retail Study contains a health check against which to assess the impact (including cumulative) of the proposal. As indicated earlier, the WYG Study finds a worrying decrease in market share within the study area for the town centre which is partially accounted for by a significant increase in market share for Lyme Green RP. WYG also found the vacancy rate is well above the national average contrary to ANA's observations. WYG's conclusion summary is that *"whilst there are some positive signs of health, the centre does need intervention to address its existing deficiencies if it is to be considered a vital and viable centre"*.

The proposal will result in an adverse impact on the trade and turnover of Macclesfield town centre. Whilst Martin Tonks and ANA conclude that the Town centre is vital and viable, WYG comment that the conclusions of the retail study are not as positive. The vacancy rate is above national average and the trade diversion impact is not modest as suggested. However, WYG do note that there is the potential for some of the vacant units to be occupied in the short to medium term as a direct result of the planned and committed investment in the town centre, which would also have the potential to increase the overall comparison offer of the centre.

The diversity of use analysis suggests that there has been a decrease in the amount of comparison goods floorspace and units in the town centre and an increase in vacant floorspace in the town centre, particularly when looking over the past ten years to 2006. In terms of the level of vacant floorspace and units, WYG understand from the Cheshire East Regeneration Team, that the proportion has risen further since the latest WYG survey. However, WYG identify that a number of the vacant units cited are on the very periphery of the town centre where footfall is lower and the units are less attractive to operators. There is also potential for shoppers to link their trips to Barracks Mill both via foot and by car. In terms of foot, the applicant has offered to improve signage (fingerposts) around the site to promote linkages with the town centre, which would be a benefit, albeit limited.

There has also been a concentration of vacant units in the Grosvenor Shopping Centre where the Castle Street scheme is proposed. WYG note that it is not uncommon for units to be vacant in the short to –medium term whilst leases expire prior to development being implemented.

However, WYG is satisfied that the proposed development is unlikely to have a significant adverse impact on the vitality and viability of Macclesfield town centre. Whilst they note that the cumulative impact identified in the WYG sensitivity test above appears to be high, WYG are of the view that due to the specific types of goods which will be restricted to be sold from the floorspace proposed at Barracks Mill, the figures represent a 'worst case scenario'. WYG are also of the view that the proposal will bring qualitatively different operators to Macclesfield, the type of retailers who would otherwise struggle to find suitable premises in the town centre, given the heritage and townscape constraints and the small floorplate dimensions. This is considered to be a welcome benefit.

In terms of the impact on choice and competition, based on the advice of agents Cheetham & Mortimer, ANA consider that the proposed development is likely to add to the attractiveness of Macclesfield as a retail destination by introducing retailers that are not presently represented in the town. The Council disagrees with ANA's interpretation of the Todmorden and Saffron Walden decisions where the Inspector was concerned about the overall choice and competition in those town centres post development and not the impact on individual town centre stores / proposals.

As already stated, WYG note that vacancy levels are relatively high in the centre and that the conclusions of the retail study was that there needed to be intervention within the centre to ensure that the vitality and viability does not fall further. However, they consider that any real potential for the proposed development to have a significant adverse impact on the identified investment schemes within Macclesfield town centre is unlikely. The schemes are qualitatively different and due to the nature of the conditions put forward by the applicant to control the proposed floorspace, it is not considered that the proposal would attract retailers which would have otherwise occupied the committed units at Castle Street, in particular. This is dependent on the proposed development not including the sale of clothing, footwear and fashion accessories as the Castle Street scheme in particular is aimed at encouraging such uses.

With respect to the Castle Street and Churchill Car Park schemes, WYG have advised that with signs of these schemes being implemented, it is considered that there is potential for the vitality and viability to improve over the medium term, which is the likely timeframe for this proposal to progress too. WYG therefore conclude that they do not consider that the proposal subject of this application will have a significant adverse impact on the vitality and viability of the town centre and that its health will improve irrespective of these proposals over the short to medium term, as long as there are sufficient restrictions attached to any consent.

The Council has a better understanding of the proposal and its likely impact upon Macclesfield town centre. There is unlikely to be an impact on investment in the town centre in terms of competition for the same occupiers as the kind of intended operators do not have town centre formats. This has been confirmed by both of the council's retail consultants.

Overall Retail Impact

The applicant has demonstrated that there are no sequentially preferable sites for the proposal. Overall, it is concluded that the impact of the proposal on the vitality and viability of Macclesfield town centre will be adverse but not significant adverse even in the worst case cumulative impact scenario. This adverse impact has to be balanced against the benefits of

the proposal such as regeneration of a derelict site and considered with all other material considerations such as compliance with the development plan in a planning balance exercise.

Both of the Council's Retail Consultant have advised that the proposal should be suitably conditioned to restrict the sale of goods as offered by the applicant. Subject to this, it is considered that it would be very difficult to defend a refusal on retail grounds at appeal. It is accepted that the town centre has declining vitality and viability but as the WYG study advises this can be addressed by the proposed retail and leisure investments in the centre which the proposal should not impact upon. The original 2011 WYG study identified out-of-centre retail developments as a key threat to the future vitality and viability of Macclesfield town centre (and especially clothing stores and household goods stores) but the 2016 study does not retain this advice which probably reflects the increasing diversification of the retail warehouse sector which is another reason why it would be difficult to defend a refusal at appeal on retail grounds. Owing to this, it is considered that the proposal is acceptable in this regard.

With the imposition of conditions limiting the goods for sale, the council is better assured about the potential impact on the town centre as it is clear that the future occupiers will be those that operate on an out-of-centre retail format and are less likely to compete with the majority of goods sold within the town centre. To ensure that control can be exercised over the range of goods sold within the proposed units, thereby limiting the impact on the town centre, it is proposed that the range of goods sold are carefully restricted to limit trade diversion from the town centre. The detailed wording of the proposed condition would be as follows:

5. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended), or any Order revoking and re-enacting that Order, subject to the exceptions in part (B), the Class A1 (retail) floorspace hereby approved shall only be used for the sale of the following broad categories of goods:

- a. Carpets, floorcoverings, furniture, home furnishings;
- b. Electrical goods and domestic appliances; and
- c. DIY goods and materials, gardening goods and equipment.

The exceptions are that:

- a. **Unit 1** illustrated on indicative drawing no 2273 AA(4) 11 P0 may also be used for the sale of: fabrics, haberdashery and related products; homewares including glass and china goods; toys; craft and hobby materials and equipment; pet products; office equipment; stationary and supplies; sports clothing, footwear and equipment; goods for camping and caravanning; outdoor pursuits clothing, footwear and equipment; motor parts and accessories; bicycles, bicycle accessories and related products; boating accessories and related products; confectionary and food for consumption on the premises; other leisure goods; and seasonal products such as Christmas decorations.
- b. **Unit 2** illustrated on indicative drawing no 2273 AA(4) 11 P0 may also be used for the sale of: homewares including glass and china goods; fabrics, haberdashery and related products; craft and hobby materials and equipment; confectionary and food for consumption on the premises; and, seasonal products such as Christmas decorations.

- c. **Unit 3** illustrated on indicative drawing no 2273 AA(4) 11 P0 may also be used for the sale of: sports clothing, footwear and equipment; goods for camping and caravanning; motor parts and accessories; bicycles, bicycle accessories and related products; boating accessories and related products; clothing, footwear and equipment for outdoor pursuits; and other leisure goods.
- d. **Unit 4** illustrated on indicative drawing no 2273 AA(4) 11 P0 may also be used for the sale of convenience goods. In the event that this unit is used predominantly for the sale of convenience goods, no more than 20% of the net sales area may be used for the sale of ancillary comparison goods, but which shall not include the sale of clothing, footwear or fashion accessories.

For the avoidance of doubt, this permission does not imply or convey consent for the sale of everyday or fashion clothing or footwear, books, jewellery, watches, beauty or healthcare products.

The considerations in this assessment are clearly both crucial to the future health of the town centre but on balance it is considered that, subject to this condition, the impact of the proposal on the vitality and viability of Macclesfield town centre will be adverse but not significant adverse.

ENVIRONMENTAL AND SOCIAL SUSTAINABILITY

Design

The NPPF and local plan policies BE1 and SE1 emphasise the importance of securing high quality design appropriate to its context. NPPF paragraph 61 states that:

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

Whilst the application is in outline form, the application is supported by indicative plans which show how the development could be accommodated on the site. The maximum floorspace of 12,881 square metres would be distributed across 4 units which would be of typical portal construction with metal cladding to the facing elevations and glazed features denoting the main entrances to the units facing a car park.

There is a clear precedent for large industrial buildings on the adjacent Hurdsfield Industrial Estate and the site would also be read in the context of the existing Tesco store located to the southwest. Whilst there are smaller residential properties to the east on Withyfold Drive, the proposal would lower ground than the houses on Withyfold Drive which are positioned on higher ground.

The retail units, if constructed to the maximum scale allowed within the parameters set out in the application, would be higher than the two storey residential properties on Black Lane to

the east. However, having regard to the scale of the adjacent industrial buildings to the north, and the separation between the proposed retail units and adjacent properties, it is considered that the scale, mass and height of the proposed buildings would be relatively sympathetic to the surrounding buildings in this area which has a mixture of residential and commercial properties of varying styles, scales and designs.

Subject to further considerations relating to landscape and the use of high quality materials, the proposal complies with policies BE1 and SE1 (Design).

Landscaping and Trees

The application includes a Proposed Landscape Plan (Drawing No. 2273 AA(40)10 P2), however the Design and Access Statement indicates that any planting will be dependant on contamination tests and the lime stabilisation process.

It is clear from the application that the proposed floor level of the retail units and finished levels of the car parking area and service yard are yet to be formulated. This will have an impact on the height of the eastern boundary wall which is also the boundary of the private gardens along Withyfold Road. This proposed boundary feature is described as varying from gabion wall alongside unit 1 to either a sheet piled wall, or a criblock configuration along the more northerly part of the eastern boundary. The application also notes that there would be a substantial 2 metre high timber fence at the rear of the gardens. The changes in level will also have an impact on the western boundary alongside the River Bollin. It is considered these boundaries will require careful attention at the detailed reserved matters stage when scale, landscaping, layout and appearance are detailed.

Whilst the majority of the site is given over the built form and hard landscaping, there are a number of tree specimens located towards the north of the site and close to the boundaries. Some of the trees that will require removal to facilitate the development are multi-stemmed specimens with weak included forms, or are in relatively poor condition. In this regard their removal will not have a significant impact upon the wider amenity of the area. It is considered that these losses can be satisfactorily be mitigated by new landscaping within the site.

Land Contamination

The application area has a history of use as a textile mill and general industrial use and therefore there is the potential for contamination of the site. The reports submitted in support of the application recommend that a further post demolition investigation is carried out to determine the presence and extent of any contamination on site. As such, and in accordance with the NPPF, the Council's Environmental Protection Unit recommends that such updated reports and investigations can be secured by condition, should planning permission be granted. Subject to this, the considerations in respect of land contamination are acceptable.

Parking, Highway Safety and Traffic Generation

Vehicle and pedestrian access will be taken from The Silk Road. The current access to the site is from Black Lane which then links to Hurdsfield Road at an existing traffic signal junction. The proposed main access to the site is from the Silk Road, as this section of the A523 is a dual carriageway the access will be a left in and left out arrangement only.

The primary servicing of the site by HGV vehicles will take place from Black Lane. Information presented in the Transport Assessment indicates that the frequency of delivery to the retail units is one HGV per day. Given the location of the fast food unit and coffee pod, it would be expected that deliveries to these units would be made via the main site access off the Silk Road. Overall the parking provision on the site is 324 spaces.

The Council's Head of Strategic Infrastructure (HSI – Highways) has confirmed that a new access is preferred from the A523 given the size of development proposed and likely levels of trip generation. In regards to the design of the access to the site, the detail is acceptable and there are no capacity problems with the left in/left out arrangement.

Impact on Local Highway Network

Although the site is currently served from Black Lane, the Council's Head of Strategic Infrastructure (HSI – Highways) has stated that the reuse of this access would be unacceptable as primary access to the proposal. Black Lane already serves as the exit to the nearby Tesco Extra store and capacity problems would arise should the traffic from this proposal be added to this road.

The main access being a left in/ left out on the Silk Road does not raise and capacity problems at the site access itself. The applicant has submitted a drawing showing the proposed access arrangements with a deceleration lane and merge lane onto the Silk Road.

The traffic generated by the proposal has been predicted using the TRICS database for the various use classes included in the scheme, adjustments have been made to the overall number of trips to take account of linked trips and pass-by trips. The assessment of the road network has been undertaken when the flows from the development are likely to be at their highest and coincide with peak traffic on the existing road network. The weekday evening peak has been tested along with a Saturday peak. The capacity assessments undertaken are in 2015 and 2020 with and without the development added to the network.

Although the applicant has undertaken a number of junction assessments the TA the main concern is the operation of the Hibel Road/A523 Silk Road roundabout as this would see not only increases in traffic but more right turning traffic as a result of the development. As part of the assessment of this junction, existing queue length surveys were undertaken to allow a comparison to be undertaken with the potential impact the development traffic would have on the queue lengths. Following this, the applicant has proposed some improvements to this junction as part of the application. These improvements would have some effect in reducing the predicted queue lengths but are not capable of bringing the junction back to within capacity levels. With the development in place there will be residual queues, primarily on the Silk Road on the north and south approach to the roundabout.

The proposed development access arrangements will increase the traffic levels and turning movements at the nearby Hibel Road/Silk Road roundabout and the level of impact that the scheme has at this junction is an important consideration. The applicant has proposed an improvement scheme for this junction that will reduce the level of impact that the development will have, although residual queues will remain on the Silk Road approaches. Clearly, an assessment has to be made whether the length of queues and delay represents a 'severe' impact as described in the NPPF and warrants a refusal. If the existing situation is considered

at the roundabout, the queue lengths will extend in the future through general traffic growth without the introduction of the development. The addition of the further development traffic and improvement scheme will extend the queues but not to such an extent that could be construed as having a 'severe' impact at the junction.

In summary, there are traffic impacts associated with this development proposal but having regard of the mitigation measures proposed, the Council's Head of Strategic Infrastructure (HSI – Highways) does not consider that a severe impact refusal can be supported and does not raise objections to the application. A Grampian condition is required to provide the site access works and also the road improvement works on the Silk Road.

Pedestrian Access

Given the site location, the predominate transport mode to the site will be by car. The site is capable of being accessed by foot using the existing pedestrian facilities on Black Lane and at Hurdsfield Road. There are no pedestrian facilities proposed on the Silk Road as part of the application.

In regards to accessibility to cycle and public transport, there are cycle tracks available in the vicinity of the site and bus services are available on Hurdsfield Road. Overall, whilst there are opportunities to use non car modes to access the site, by far the most dominate mode of travel to retail parks is by car.

To improve the sustainability of the proposal, and connectivity with the town centre to make it more accessible to the proposed development, it is recommended that the applicant be required to facilitate the provision of town centre which would contribute towards assisting the planned investment and regeneration of the town centre and offsetting some of the impacts to the retail function of the town centre. This would comprise of some finger post signs to direct pedestrians towards the town centre.

Car Parking

Adequate car parking is provided for within the proposed car park.

Taking the above into account, the scheme is found to be acceptable in terms of its impacts on the local highway network (subject to the mitigation proposed) and the parking and pedestrian facilities would be sufficient to accommodate the proposed development subject to further discussions regarding the provision of signage to promote pedestrian movement up to the town centre. The proposal therefore accords with Policy BE.3.

Ecology

Local Plan Policy NE11 seeks to protect nature conservation interests and indicates that where development would adversely affect such interests, permission should be refused.

The NPPF advises LPA's to conserve and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

In this case, the application is supported by a protected species survey undertaken by a suitably qualified and experienced ecologist and deals with the following species.

Reptiles

A single common lizard was recorded on site during ecological surveys undertaken at this site a few years ago. The submitted ecological assessment notes that there are also anecdotal records of this species being present on site. It is advised that a population of this species would be considered to be of County importance due to small number of known populations in Cheshire. Two subsequent rounds of reptile surveys have however failed to record any evidence of this species at the application site.

Whilst it is possible that this species may have been lost from the site, it is also a reasonable possibility that the species remains on site in low numbers, but was not detected during the survey, possibly as a result of the large number of existing refuges present on site. The proposed development would result in the loss of an area of habitat suitable for this species. The indicative layout does however retain a core of habitat under an existing pylon and links with the Silk Road verge and the offsite area of woodland both of which may also be suitable for this species. However, at present, reptiles also have an opportunity to access habitat associated with the Beech Lane playing fields by passing under the Silk Road through the pedestrian tunnel adjacent to the River Bollin. The proposed access road would sever this potential habitat connection. The Councils Nature Conservation Officer (NCO) recommends that a tunnel be provided under the proposed access road to facilitate the movement of animals under it. This is considered reasonable and necessary and therefore should be included in the detailed layout. Layout and supported by a reptile mitigation method statement with any future reserved matters application.

Common Toad

Small numbers of this priority species were recorded on site during the reptile surveys. It is unknown where this species may be breeding as no ponds are known in the vicinity. Similarly to common lizard, it is advised that the proposed development will have a localised adverse impact upon this species as a result of the loss of terrestrial habitat. A core of habitat and some site connectivity would however be retained. This species would however also benefit from a wildlife tunnel under the proposed access road.

Natural Grassland Habitats

A small area of natural grassland is present on site. Based on the submitted survey information this habitat may support sufficient species to meet Local Wildlife Selection Criteria for 'restorable grassland'. This being grassland that with positive management could reach Priority Habitat quality. The submitted ecological assessment states that 10% of this habitat would be lost as a result of the proposed development. The Council's NCO advises that if planning

consent is granted it must be ensured that the remainder of this habitat is safeguarded during the construction phase and enhanced through appropriate management.

Bats

A minor bat roost was recorded during the previous ecological surveys of this site. Whilst bats are active on the site no evidence of roosting bats was recorded during the latest survey. The buildings have been identified as having potential to support roosts of small numbers of bats but are unlikely to support a significant roost. It is recommended that if outline planning consent is granted a condition should be attached requiring any future reserved matters application to be supported by an updated bat survey. To avoid and adverse impacts resulting from excessive lighting, it is also recommended that a condition should be attached requiring any future reserved matters application to be supported by a lighting mitigation scheme.

Badgers

No evidence of badger activity was recorded during the latest survey. However, as the original survey was undertaken in January 2015 it was considered to be out of date. As evidence of badgers has previously been recorded on this site, officers requested updated surveys which have now been carried out. The updated survey addresses queries raised by the Council's Nature Conservation Officer (NCO) and includes an updated plan confirming inclusion of a wildlife tunnel. This would be secured by condition. Subject to this, the scheme is acceptable in terms of its impact interests of nature conservation.

Nesting Birds

The application site offers opportunities for nesting birds. The bird surveys undertaken of the site recorded evidence of breeding by a number of species including single breeding pairs of three species considered to be Priority species. It is advised that the proposed development will have a localised adverse impact on nesting birds. Accordingly, any future reserved matters application must be supported by proposals for the incorporation of features for roosting bats, house sparrow and kingfisher.

The submitted ecological assessment proposes the production of a Construction Method Statement and Ecological management plan. The Council's NCO advises that any future reserved matters application must be supported by a Construction Method Statement informed by the recommendations made in paragraph 5.2 of the Ecological Assessment submitted in support of the outline planning application (Tyler Grange 14th December 2015) and also an Ecological Management plan informed by the recommendations of paragraph 5.3 of the same submitted report. Subject to this, the proposal is acceptable in terms of its impact on nesting birds at this stage.

Flooding and Drainage

The site is located in flood zone 1, with some parts of the site located within flood zone 2 due to the close proximity of a main River Bollin that runs close to part of the south eastern boundary. This watercourse flows in a north westerly direction. The risk of flooding from this source will need to be appropriately mitigated.

Owing to the size of the proposals and proximity to the River Bollin, a Flood Risk Assessment (FRA) has been undertaken. The Environment Agency and the Council's Flood Risk Team have assessed the FRA and are satisfied that subject to the recommendations within the FRA and conditions, the proposal would not give rise to flooding or drainage issues.

Residential Amenity

The nearest residential properties are located on Black Lane and Withyfold Drive and it is considered that the development will be compatible with appropriate conditions attached to protect the residents' amenity. The Council's Environmental Protection Unit (EPU) has assessed the application together with the submitted noise assessment and is satisfied that subject to conditions, the scheme would not prejudice the amenity of future occupiers or the occupiers of adjacent properties by reason of noise or odours.

Although precise details of the layout and appearance are not for consideration as part of this application, the indicative scale parameters and separation distance (in excess of 40 metres) with the nearest neighbouring properties would ensure that no material harm by reason of loss of light, direct overlooking, visual intrusion or noise would be incurred. It is also important to note that the lawful use of the site and presence of existing built form across the site has the potential to harm neighbouring amenity to a greater degree than the proposed operations which can be further mitigated. This would be a benefit of the scheme. As such, the proposal complies with local plan policy DC3.

In the round, subject to further submission relating to trees, landscaping and ecology, the scheme is found to be environmentally and socially sustainable.

PLANNING BALANCE & CONCLUSIONS

This proposal would bring economic benefits through the delivery of new jobs, investment in the area and by bringing a vacant brownfield site into viable use on one of the key gateways to Macclesfield, which is one of the principal growth areas of the Borough where national, local and emerging plan policies support sustainable development.

The proposal to redevelop the site for uses other than industrial or conventional employment uses is contrary to policy. However, it has been accepted that this site is unlikely to contribute towards existing employment land in the borough. The Council's own evidence weighs against any argument for retention of this site for employment land and this is supported by the fact that the site is assessed as being a suitable brownfield site for housing within the urban potential study and therefore the principle of losing this site for employment purposes has already been factored in.

The applicant has demonstrated that there are no sequentially preferable sites for this out of centre retail proposal. It is concluded that the impact of the proposal on the vitality and viability of Macclesfield town centre will be adverse but not significant adverse even in the worst case cumulative impact scenario. With examples of the likely 'out-of-centre' retailers that could occupy the proposed units, the Council has a better understanding of the proposal and its likely impact on the town centre. Subject to conditions limiting the goods for sale, the adverse impact has to be balanced against the benefits of the proposal such as regeneration

of a derelict site and considered with all other material considerations such as compliance with the development plan in a planning balance exercise.

Taking into account the site abnormal costs, which comprise of; demolition and site clearance; remediation; provision of suitable access; the GDV of developing the site for potential alternatives would fall below the 17.5-20% that would make the scheme less attractive to the developer / landowner and would potentially risk the regeneration of the site. The proposed retail scheme would be able to generate a positive GDV that is attractive to the developer / landowner and would enable the redevelopment of this gateway brownfield site. In light of the submitted viability appraisal and in addition to the earlier considerations regarding employment land, it is not considered that a refusal could be sustained on the loss of employment land in this case.

In terms of landscaping and trees, the treatment of boundaries will require careful attention at the detailed reserved matters stage when scale, landscaping, layout and appearance are detailed. Some of the trees on the site will require removal to facilitate the development; however, they are in relatively poor condition. In this regard their removal will not have a significant impact upon the wider amenity of the area. It is considered that these losses can be satisfactorily be mitigated by new landscaping within the site.

Vehicle and pedestrian access will be taken from The Silk Road. The current access to the site is from Black Lane which then links to Hurdsfield Road at an existing traffic signal junction. The proposed main access to the site is from the Silk Road, as this section of the A523 is a dual carriageway the access will be a left in and left out arrangement only. There are traffic impacts associated with this development proposal but having regard of the mitigation measures proposed, the Council's Head of Strategic Infrastructure (HSI – Highways) does not consider that a severe impact refusal can be supported and does not raise objections to the application. The scheme is found to be acceptable in terms of its impacts on the local highway network (subject to the mitigation proposed) and the parking and pedestrian facilities would be sufficient to accommodate the proposed development subject to a scheme for pedestrian signage to promote links with the town centre.

The proposal is compatible with the surrounding development and the indicative design, scale and form of the buildings would not appear incongruous within its context subject to the submission of appropriate reserved matters.. The impact of the proposal on environmental considerations relating to flooding, drainage, land contamination (subject to further investigations) and ecology would be acceptable.

The impact on neighbouring residential amenity would be acceptable owing to the present lawful use of the site, separation distances and having regard to the context of the area where there are retail, commercial and industrial uses.

On this basis, the proposal is for sustainable development which would bring environmental, economic and social benefits.

The proposal constitutes a "departure" from the plan where there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined "in accordance with the plan unless material considerations indicate otherwise". There would be benefits to

the economy which are considered to outweigh this conflict and as such the scheme is found to be sustainable. These material considerations are sufficient to outweigh the conflict with the development plan.

The proposal is therefore considered to be acceptable in the context of the relevant policies of the adopted Macclesfield Borough Local Plan and advice contained within the NPPF and emerging local policy. The application is therefore recommended for approval subject to the following:

RECOMMENDATION:

Approve subject to the following conditions:

- 1. Standard outline time limit**
- 2. Submission of reserved matters**
- 3. Accordance with approved plans**
- 4. Development to be carried out in accordance with submitted noise impact assessment**
- 5. Sales of goods restricted**
- 6. No subdivision of units or additional mezzanine floorspace**
- 7. Further details of any fixed plant / noise generative equipment to be submitted and approved**
- 8. Submission of an Environmental Management Plan**
- 9. Submission of a low emission strategy**
- 10. Provision of electric vehicle charging points**
- 11. Submission of dust control strategy**
- 12. Additional contamination investigations and assessments to be submitted and approved**
- 13. Accesses constructed in accordance with submitted details prior to first use**
- 14. Development to be carried out in accordance with submitted ecological survey**
- 15. Survey for nesting birds if works carried out during nesting season**
- 16. Scheme to incorporate features suitable for breeding birds**
- 17. Development to be carried out in accordance with submitted Flood Risk Assessment**
- 18. Submission of a sustainable drainage management and maintenance plan scheme**
- 19. Details of foul water drainage to be submitted**
- 20. Surface water drainage strategy to be submitted**
- 21. Landscape scheme to be submitted with reserved matters**
- 22. Updated protected species to be submitted with reserved matters**
- 23. Submission of updated arboricultural report with reserved matters**
- 24. Hours of use restricted**
- 25. Travel plan to be submitted**
- 26. Reserved matters to include access for animals to be retained**
- 27. Details of external lighting to be submitted and approved**
- 28. Details of cycle parking to be submitted and approved**
- 29. Scheme of pedestrian signage to be implemented prior to first use**

Informative to include s184 agreement for works to the Silk Road.

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

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

