

<b>APPLICATION NO:</b> 13/01101/FUL		<b>OFFICER:</b> Mr Ian Crohill	
<b>DATE REGISTERED:</b> 29th June 2013		<b>DATE OF EXPIRY:</b> 28th September 2013	
<b>WARD:</b> Benhall/The Reddings		<b>PARISH:</b> None	
<b>APPLICANT:</b>	Mr Peter Harris		
<b>AGENT:</b>	Mr Ian Gilbert		
<b>LOCATION:</b>	Land at North Road West and Grovefield Way, Cheltenham		
<b>PROPOSAL:</b>	Proposed erection of a flagship BMW, Mini and Motorrad dealership including vehicle sales and servicing facilities and will include the creation of an access from Grovefield Way		

**RECOMMENDATION:** That permission be granted subject to the completion of a satisfactory Agreement under Section 106 Town and Country Planning Act 1990 and the ratification of the decision by the Secretary Of State.

## REPORT UPDATE

### 1. OFFICER COMMENTS

#### 1.1 Determining Issues

**1.1.1** Matters that need to be considered in determining this application relate to the following;

**1.1.2** The Site and its context, the Planning History of the site and the context of the application, Design and layout, planning Policy considerations, Transport issues and lastly impact on neighbouring amenity.

#### 1.2 The site and its context

**1.2.1** The application site comprises some 2.2ha of land adjacent to the north west of Grovefield Way and south of the A40. The site is part of a wider parcel of land that amounts to some 6.4ha in area; the land is all under the control of the applicant. The land is bounded principally by Grovefield Way, North Road West and the A40.

**1.2.2** The site is located within the Green Belt, surrounded by a mix of residential, commercial and employment uses including the Arle Court Park and Ride site.

**1.2.3** The general topography of the site is that the land is highest in the south east and east falling away towards the west . The north of the application site is separated from the A40 dual carriageway road by an earth bank planted with a belt of trees. The site is accessed off Grovefield Way a relatively new road link which runs from the A40 roundabout interchange southwards through The Reddings to Hatherley and south west Cheltenham.

#### 1.3 Planning History

**1.3.1** The planning history of this site relates to the wider site and is particularly involved and of great significance.

**1.3.2** Following an initial refusal of permission (05/00799/OUT) in March 2006, planning permission was granted on appeal in May 2007 (APP/B1605/A/06/2015866/NWF) for the wider site at Grovefield Way for B1 industrial uses along with the option to provide for an extension of the existing Arle Court Park and Ride facility.

**1.3.3** Subsequently further reserved matters applications were approved in May 2009 (09/00369/REM) for details of the main access road into the site, parking and the siting of the buildings; December 2009 (09/00720/REM) for details of the landscaping scheme and management plan, the design and appearance of Phase 1, including a Design Handbook relating to the design and appearance of the remaining phases of the development and boundary treatments; and July 2010 (10/00690/REM) for the design, appearance and landscaping of Phase 2.

**1.3.4** The details that were approved showed a mix of 2 and 3 storey buildings with a maximum height of 12 metres with the taller buildings at the A40 end of the site. The development was to be access by a central spine road running east to west and the buildings were shown to be of simple contemporary design. A comprehensive landscape scheme, covering the whole site was also approved.

**1.3.5** In May 2011 a further application was submitted as a revision to the reserved matters already approved in an attempt to tie them all together and at the same time extend them to include the remaining phase that had not up till then been the subject of a stand-alone reserved matters approvals was approved (10/1562/REM). That approval was, however, subject to Judicial Review and the decision to approve was subsequently quashed by the Courts on 24 October 2011.

**1.3.6** Prior to that decision of the Courts, however, the applicants submitted yet another application, this time for an extension of the time limit for implementation of the outline planning permission originally granted on appeal in 2007. That application (10/00468/TIME) was approved by Planning Committee on 22 June 2010. The time scale for submission of details reserved by the renewed outline, therefore, was up to June 2015.

**1.3.7** Following that approval, however, leave was requested in November 2012 from the High Court to once again challenge the legality, this time of the extension of time permission by way of Judicial Review. It was argued that the decision to grant the extension of time was fundamentally flawed since the procedures; in particular those relating to time scales for the submission of an extension of time application had not been met and correctly adhered to.

**1.3.8** The request was originally made in the form of written representations and was denied, thus no challenge was held. Subsequently, however, the Challenger made an application to the Court for a Renewal Hearing where again, leave from the High Court to challenge the decision was requested. That Hearing took place on 15 July 2013 by way of oral (as opposed to written, as previously) representations and the decision was that permission to apply for a Judicial Review in respect of the planning approval was refused and the Challenger was ordered to pay the costs incurred by the Council.

**1.3.9** Following that decision, a comprehensive list of matters reserved by the extant outline (granted by way of application 10/00468/TIME), was approved under application reference 12/01086/REM on 21 August 2013.

**1.3.10 Planning permission to develop the larger site for the purposes of a Business Park is therefore extant and will not lapse until whichever is the later of the following dates:- 5 years from the date of the outline permission (22<sup>nd</sup> June 2017) or 2 years from the date of the REM decision (21<sup>st</sup> August 2015).**

**1.3.11** It is clear that the site benefits from an extant permission to develop for commercial purposes and that alone constitutes a significant material consideration in determining any subsequent applications to develop the site. It follows that the circumstances against which the Inspector determined the previous planning application must be revisited 6 years on; though it should also be borne in mind that the Council saw fit in 2012 to renew that outline permission.

**1.3.12** With regard to the need for employment land, the Inspector concluded in 2007 that there was a 'serious' shortfall in local employment land provision up to 2011 at least. He considered that such a shortfall was a very special circumstance that justified the use of this Green Belt site for B1 development at that time. The report to Committee only last year, in 2012, dealing with the TIME application to extend the time in which the outline could be implemented contained the following report by the then Council's Strategic Land Use Manager.

*"From a planning policy perspective the issue to consider in respect of application 10/00468/TIME is whether there have been any significant changes arising since the determination of the planning appeal granted on 1st May 2007.*

#### *Green Belt Review*

*In March 2007 a green belt review for Cheltenham was undertaken by consultants AERC. This review looked specifically at the application site (denoted as sub area E1 within the review) and categorised the site as falling within the ranking of an average score. Sub zone E1 scored 130, with the lowest sub zone scoring 68 and the highest 202 across the Borough.*

*In arriving at this score the review identified the purposes of the green belt relevant to the site as being; checking unrestricted sprawl of built up areas, assisting in safeguarding the countryside from encroachment and preserving the setting and special character of historic towns. The site did score against the merging of neighbouring towns, but this received only the minimal score of 1.*

*The findings of the green belt review were presented to the Inquiry in 2007, and therefore taken into account by the Inspector in reaching his decision of allowing the development at Grovefield Way.*

*Since 2007 a further green belt assessment has been undertaken, prepared by consultants AMEC to inform preparation of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy – published September 2011. This green belt assessment includes the area of the application within assessment area SE10. This assessment area is defined as making a significant contribution to the green belt; however it should be noted that the 2011 review is a strategic assessment relating to clusters of green belt segments rather than a localised assessment looking at much smaller areas of land as was the methodology of the 2007 green belt review.*

#### *Employment Land Position*

*The last employment land assessment report was published in October 2010 which covers the period 2009/10.*

*In considering the employment land position at the time of preparation of the local plan, the Inspector, reporting in March 2005 concluded that he was in "no doubt that the plan does not provide enough employment land", in considering the Inquiry into the non determination appeal in 2007 the Inspector supported this view, considering that the shortfall in new employment provision demonstrated very special circumstances and therefore justified development of land within the green belt.*

*As shown in the tables 1 and 2 below, since 2007, overall Cheltenham has continued to lose more employment land. Whilst some new employment land has been developed, this has not been at a rate to balance the loss or make a positive contribution to the Structure Plan requirement of 12 hectares.*

*New employment land commitments as of 1st April 2010, totalled 23.47ha (76,478sqm), of which the site at Grovefield Way contributes 6.4ha (64,000sqm).*

Monitoring against the Structure Plan identifies a shortfall of 6.1ha. If the site at Grovefield Way is not implemented this will increase the shortfall to 12.5ha.

Employment land assessment monitoring for 2010/11 and 2011/12 will be carried out in April/May 2012. Initial review of commitments and losses indicate that there will be increasing losses to employment stock further increasing the employment land deficit.

**TABLE 1: Employment land completions in Cheltenham Borough from 1991**

Year	1991 - 2006/07	2007/08	2008/09	2009/10	2010/11	Total
<b>Completions</b>	<b>7.741</b>	3.468	1.282	0.6482		<b>13.1392</b>
<b>Losses</b>	<b>22.334</b>	2.13	1.574	0.9403		<b>26.9783</b>
<b>Net Change</b>	<b>-14.593</b>	1.338	-0.292	-0.2921		<b>-13.8391</b>

**TABLE 2: Gloucestershire Structure Plan Second Review employment requirements: Cheltenham Borough: 1st April 2010**

<b>Area (ha)</b>	
Land developed since mid-1991	13.1392
Land Not Started at 01/04/2010	22.7543
Land Under Construction at 01/04/2010	0.7208
Local Plan Allocations to 2011	-
<b>Gross Land Supply</b>	<b>36.6143</b>
<b>Area (ha)</b>	
Losses since mid-1991	26.9783
Expected losses at 01/04/2010	3.8257
<b>Total Losses</b>	<b>30.804</b>
<b>Net Land Supply</b>	<b>5.8103</b>
Gloucestershire Structure Plan Requirement	12.00
<b>Residual to mid-2011</b>	<b>6.1897</b>

#### Cheltenham Employment Land Review

In December 2010 an assessment of Cheltenham, Gloucester and Tewkesbury employment land reviews was published to help inform the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, prepared by consultants Nathaniel Lichfield and Partners. This report concluded that over the period 2006 – 2026 the employment land requirement for Cheltenham for around 11.9ha of employment land. Taking into account the monitoring information above, Cheltenham is currently under performing if this level of land was to be met.

#### Planning Policy Statement 4 (PPS4) – Planning for Sustainable Economic Growth

In setting out Government policy in respect of determining planning applications for economic development (policy EC10) PPS4 states “Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably”. In addition policy EC11 provides further advice in regard to determining planning applications not in accordance with an up to date development plan, this includes;

“(a) weigh market and other economic information alongside environmental and social information

*(b) take full account of any longer term benefits, as well as the costs, of b. development, such as job creation or improved productivity including any wider benefits to national, regional or local economies; and*

*(c) consider whether those proposals help to meet the wider objectives of the development plan”.*

#### *Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS)*

*In December 2011 the 3 JCS authorities published the Joint Core Strategy – developing the preferred option. This emerging strategy identified the need for around 46 ha of employment land to be developed across the JCS area up to 2031. Currently there is a gap in the economic evidence base; this is currently being addressed. However Cheltenham plays an important role in supporting the economy of the JCS area, wider Gloucestershire and the region and as such the JCS will need to identify opportunities for new employment.*

*Not all new employment will require new sites, there will be some opportunities for redevelopment and some new jobs will be created through space-less growth. New land will*

*Given the constrained nature of Cheltenham at the boundary of the urban area, together with limited opportunities within the urban boundary to create new employment sites, alongside competing pressure for development of other land uses, employment opportunities will need to be considered outside the principal urban area boundary.*

#### *Conclusions*

*Cheltenham is involved in collaborative working through the JCS and an option in regard to the application site is whether the provision could be made via the JCS process. However, the evidence, as briefly outlined above clearly indicates that provision should not be stalled, reflecting guidance set out in PPS4. It is therefore recommended that the time extension on the application be granted.”*

**6.3.13** It is clear that the conclusions indicate that not only has the employment land deficit worsened since the 2007 appeal decision but that there is a need to rely on the development of the application site to meet that deficit.

**6.3.14** The Inspector also paid regard to the visual prominence of the site and its overall appearance within its immediate surroundings. Clearly, this has not altered since the 2007 decision. At the time his conclusions were that the given its immediate surroundings, principally the Park and Ride site to the north east, the residential estate to the east and the less dense housing along part of North Road west to the south, it seemed to him that the urbanising influence of the A40 corridor added to the those factors meant that the site did not only appear as part of the countryside outside the built up area but rather more as an urban fringe. He concluded that : *“Accordingly, I am satisfied that, subject to detailed design and layout and providing that suitable landscaping scheme, especially along the southern boundary, is included with any detailed proposals, new B1 buildings here would need not be unnecessarily intrusive in the local landscape”.* Any visual impact of the currently proposed scheme must now add to that view the fact that the development of the site by substantial buildings already been approved and that that approval is extant.

**6.3.15** Furthermore, the Inspector in 2007 considered the effect of the proposal on the local transport network. In 2010 the Council required the submission of an updated Transport Impact Assessment to reflect any possible changes that had arisen in the intervening years (the outline was submitted in 2005, even though the decision was not issued until 2007). Thus the transport impacts of the extant scheme have been assessed more recently than the impacts arising in 2007; and the scheme was considered acceptable in terms of transport implications.

## 1.4 Design and Layout

**1.4.1** The proposal is intended to provide for the relocation and expansion of the applicant's existing business operations from its Tewkesbury Road site which the company argues no longer serves its purposes. The proposal is intended to represent the BMW, Mini and Motorrad (BMW's motorcycle marque) as a flagship dealership within the region. It is claimed that the proposed development is expected to provide some 250 full and part time jobs amounting to an increase of 100 jobs from at their existing site.

**1.4.2** It is contended by the applicant's planning consultants that the development of this part of the wider site that has the benefit of an extant permission would in effect "unlock the much needed development potential of the site by providing a prestige employment use at the gateway to the land and will deliver the required access into the site.

**1.4.3** The proposed development site comprises some 2.2ha of land and includes the creation of some 7,595 m<sup>2</sup> of employment floorspace over 4 floors to provide servicing and valeting facilities on the lower ground floor, showrooms and sales space and café on the ground and first floors and office and administrative space on the top floor. Externally there would be customer car parking and circulation space along with an area for the display of demonstration and used cars.

**1.4.4** The scheme includes a comprehensive landscape scheme (detailed in the submitted landscape assessment) along with the creation of a site access to and from Grovefield Way and follows the access principles already established. As with the previous approvals, there would be no access to the site off North Road West. The proposed access has been designed to allow its extension as a spine road to serve future development of the total site.

**1.4.5** It is confirmed that the principles of site drainage are to be based on the implementation of Sustainable Urban Drainage techniques across the site. It is proposed that the rate of run-off from hard surfaced areas within the east of the site will be slowed down through SUDS systems and rainwater harvesting at the roof of the showroom. In addition water run-off would be directed to the west of the site towards the car storage area which will have a permeable surface and a water attenuation system to further control run-off.

**1.4.6** The design principles adopted by the applicant's architects are set out in full in the D&A Statement submitted with the application. The architecture of the main building is shown as a two part structure. The BMW element to the west provides a clean and contemporary pavilion style building comprising a series of flat white slab sections making up the floors and ceiling structures with a predominance of glass in the elevations. To the east, however, the building is based on the black cubed design 'synonymous with the Mini brand' of architecture and includes a highlighted display for the Mini model. Additionally the Mini cube is finished with a pedestal feature indicating a road coming away from the cube structure to display a Mini to the front of the building. The 2 segments of the building are linked by a 'neutral' glazed element which provides the entrance to the 2 halves, housing the café area and shared space. To the front of the building in line with the edge of the BMW branded building is the Motorrad showroom which exhibits a similar design ethic to the main BMW element.

**1.4.7** The main building has been designed to be dual aspect; the front facing southwards towards Grovefield Way and the 'back' would face the north, the A40 and marking its presence at one of the main gateways into Cheltenham. The north elevation would appear as 3 floors with the lower ground floor below the level of the bank. The glazed elevations of the building would mean that both BMW and Mini cars would be displayed towards both Grovefield Way and the A40.

**1.4.8** The Architects Panel have criticised the design of the building and the Civic Society, though welcoming the contemporary approach, consider the location to be such that it would be appropriate for a more iconic structure than that proposed. Clearly that illustrates the very subjective basis for architectural critique. However, Officers' view is that the building provides a clean, crisp, overtly contemporary structure, well suited to its important location at a major approach into the town. It is not too outrageous in its approach; in fact despite some flamboyant and 'adventurous' touches (Mini design on roof for example) it is almost reserved and yet exhibits a quality of design and architecture that is well suited to this location.

**1.4.9** It is stated that the building will exceed a BREEAM 'Very Good' standard which in fact is a requirement of BMW. The building will also incorporate rainwater harvesting systems on the roof to recycle water for valeting and the applicants also envisage that solar PV panels will be incorporated onto the roof.

## **1.5 Planning Policy Considerations**

**1.5.1** The only real recent major change in Planning Policy is the advent of the National Planning Policy Framework published in March 2012. This, it should be noted was, however, before the renewal of the outline permission was granted in June of that year.

**1.5.2** As already stated the planning history and in particular the fact that there is an extant permission to develop the site constitutes a significant material consideration in determining this application. In 2007 the Inspector considered that there were 3 main issues in determining the appeal, these are equally relevant today. Firstly he identified special circumstances including an agreed shortfall in employment land that outweighed the general presumption against development; secondly he considered the visual impact to be not sufficient to counteract the significance of the 'special circumstances' and thirdly he identified highway matters and concluded that these could be satisfactorily overcome by requiring the applicant to undertake certain off site works and allow for the possibility of expansion of the P&R facility.

**6.5.3** The comments of the Planning Policy team included in section **4(c)** above forensically examine the proposal in the light of current planning policy and the policy approach being pursued by the Borough Council. Members' attention is drawn to the contents of that section of the report. The conclusions reached are *"that the development would contribute well to the economic role of sustainable development as defined in National Planning Policy. The development would represent an opportunity to bring forward a job generating use on the site which would be an effective and reasonable alternative the permitted use, and may free up the potential for development of the remaining part of the site."*

**6.5.4** The Policy team in effect concludes that permission should be granted.

## **1.6 Transport Issues**

**6.6.1** The Highways advice from Gloucestershire Highways, the Highway Authority is laid out in detail in **4 (b)** above and once again Members' attention is drawn to that section in particular. The conclusions reached are that there can be *"no highway objection subject to a signed s106 agreement for a South West Cheltenham Corridor Transport Strategy Development Report and a South West Cheltenham Corridor Transport Contribution total of £503,000,"* in addition the Highways Officer suggests several highway related conditions that he considers should be attached to any permission if granted.

## **1.7 Impact on Neighbouring properties**

**1.7.1** Despite the applicants trying to engage with the local community and setting in place a public consultation event, it is perhaps not surprising that there has been a weight of opposition to the proposal. Letters of representation in the main centre on issues of principle relating in the main to the green belt and traffic generation. The submission of a new application to develop a site does not 'wipe the slate clean', and this report has stressed the significant weight that must be afforded to the extant permission.

**1.7.2** In terms of traffic, the Highways Officer has clearly agreed with the applicant's contention that the current proposal will generate less traffic than that of the extant permission and that the proposed on site parking spaces for staff is acceptable when viewed in combination with the Travel Plan designed to encourage a modal shift of staff journeys.

**1.7.3** In terms of the physical impact of the building itself no houses should be adversely impacted. At the closest point the corner of the building would be at least 75m away from the nearest house, on the other side of Grovefield Way; the building is in fact closest to the A40 and the existing Park and Ride facility.

## **2. CONCLUSION AND RECOMMENDATION**

- 2.1** It is considered that the proposal for a flagship BMW dealership in this location is acceptable. The involved planning history of site is of significant weight and the extant planning permission to develop the wider site than just the current application site is an extremely weighty material consideration in determining the application and provides the very special circumstances necessary to justify departure from the presumption against development in the Green belt, as similarly identified by the Inspector in 2007.
- 2.2** The proposal will bring with it significant economic benefits to the town and will directly contribute to an improvement in relation to the existing Park and Ride facility.
- 2.3** The development should have the potential to unlock the remainder of the site, thus further augmenting any economic benefits and should provide an exciting and contemporary development at a major gateway into Cheltenham.
- 2.4** It is concluded that permission, subject to a Section 106 Agreement should be granted and that the matter be referred to the SoS for ratification.