

<b>Application Reference:</b>	<b>DC/075220</b>
<b>Location:</b>	Unit 1B Peel Centre Great Portwood Street Portwood Stockport SK1 2HH
<b>PROPOSAL:</b>	Subdivision of Unit 1B into a maximum of three retail units.
<b>Type Of Application:</b>	Full Application
<b>Registration Date:</b>	11.02.2020
<b>Expiry Date:</b>	07 April 2020
<b>Case Officer:</b>	Suzanne Broomhead
<b>Applicant:</b>	Peel Land and Property Investments PLC
<b>Agent:</b>	

### **DELEGATION/COMMITTEE STATUS**

This application constitutes a 'departure' from the development plan and therefore can only be approved by the Planning and Highways Regulation Committee. The application will be considered by the Central Area Committee first who themselves have the power to refuse the application should they be minded to do so.

### **DESCRIPTION OF DEVELOPMENT**

This application seeks planning permission for the 'subdivision of Unit 1B in The Peel Centre into a maximum of three retail units'.

The retail unit is currently occupied by H&M (a clothing shop). The application seeks consent for considerably smaller unit floor areas. Of the proposed units, one unit would be between 279m<sup>2</sup> and 465m<sup>2</sup>, with the other two accommodating the balance, but no less 465m<sup>2</sup> per unit. The current unit size is 1672m<sup>2</sup>.

Planning permission is also sought for an unrestricted planning permission allowing them to sell food.

No operational development (i.e. building operations or external alterations) are proposed.

### **SITE AND SURROUNDINGS**

The purpose built retail unit forms part of a larger 'terrace' of shops in the 'edge of centre' Peel Centre retail park. Unit 1B is located towards the western end of The Peel Centre and is currently occupied by H&M (a clothing shop). It was formerly occupied by Borders.

The application site, like large parts of the wider Town Centre, are located within Flood Zone 2 (at medium risk of flooding).

The application site covers the building only and not the associated car parking and service yards – see site location below.

## **POLICY BACKGROUND**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“PCPA 2004”) requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

### **The Development Plan includes:**

- Policies set out in the Stockport Unitary Development Plan Review adopted 31<sup>st</sup> May 2006 which have been saved by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004; &
- Policies set out in the Stockport Local Development Framework Core Strategy Development Plan Document adopted 17<sup>th</sup> March 2011.

### **Saved policies of the SUDP Review**

EP1.7 Development and Flood Risk  
TCG1 Town Centre and M60 Gateway  
TCG2.1 Central Shopping Area  
TCG2.2 Great Portwood Street Area

### **LDF Core Strategy/Development Management policies**

SD-1 Creating Sustainable Communities  
CS-5 Access to Services  
CS6 Safeguarding and Strengthening the Service Centre Hierarchy  
AS-1 The Vitality and Viability of Stockport’s Service Centres  
AS-3 Main Town Centre Uses, Hot Food Take Aways and Prison Development Outside Existing Centres  
CS11 Stockport Town Centre  
TC-1 Stockport Town Centre

### **National Planning Policy Framework**

A Revised National Planning Policy Framework (NPPF) issued by the Secretary of State for Housing, Communities and Local Government (MHCLG) on 19th February 2019 replaced the previous NPPF (originally issued 2012 & revised 2018). The NPPF has not altered the fundamental legal requirement under Section 38(6) of the Planning and Compulsory Purchase Act 2004 that decisions must be made in accordance with the Development Plan unless material considerations (such as the NPPF) indicate otherwise.

The NPPF, representing the governments up-to-date planning policy, should be taken into account in decision making. If decision takers choose not to follow the NPPF, then clear and convincing reasons for doing so are needed.

N.B. In respect of decision-taking the revised NPPF constitutes a “material consideration”.

Para.1 *“The National Planning Policy Framework sets out the Government’s planning policies for England and how these should be applied”.*

Para.2 *“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise”.*

Para.7 *“The purpose of the planning system is to contribute to the achievement of sustainable development”.*

Para.8 *“Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):*

- a) an economic objective*
- b) a social objective*
- c) an environmental objective”*

Para.11 *“Plans and decisions should apply a presumption in favour of sustainable development.*

*For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.*

Para.12 *“.....Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed”.*

Para.38 *“Local planning authorities should approach decisions on proposed development in a positive and creative way..... Decision-makers at every level should seek to approve applications for sustainable development where possible”.*

Para.47 *“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing”.*

Para. 85 *“Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should:*

*a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;*

*b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;*

*c) retain and enhance existing markets and, where appropriate, re-introduce or create new ones;*

*d) allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary;*

*e) where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre; and*

*f) recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.”*

Para. 86 *“Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”*

Para. 87 *“When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.”*

Para. 89 *“When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace). This should include assessment of:*

*a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*

*b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme)."*

*Para. 90 "Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused."*

*Para.213 "existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".*

## **Planning Practice Guidance**

The Planning Practice Guidance (NPPG) is a web-based resource which brings together planning guidance on various topics into one place (launched in March 2014) and coincided with the cancelling of the majority of Government Circulars which had previously given guidance on many aspects of planning.

## **RELEVANT PLANNING HISTORY**

### ***Original planning consent (1987) and subsequent amendments***

The original planning consent for the Peel Centre (our ref: **J/38226**) granted in 1987, contained a series of planning conditions to ensure the development complemented rather than directly competed with the central shopping area (Merseyway, Princes Street etc.) as follows:

- (10) There shall be no sub-division or sub-letting of the site/premises the subject of this permission.
- (19) The buildings shown as Unit 1 and 1a shall form one unit and not two separate units and shall be occupied as one unit unless planning permission is otherwise obtained.
- (23) The premises shall be used for a non-food, bulk trading park and for no other purpose...unless otherwise agreed in writing with the Local Planning Authority.

These conditions reflected the Peel Centre's secondary place in the retail hierarchy by ensuring its offer was distinctly different to that offered by the central shopping area in the town centre.

The planning permission was also granted alongside a planning obligation (legal agreement) restricting the types of the goods that could be sold.

This legal agreement was subsequently revoked by application and deed in 1998 (our ref: **J/69473**) and the condition was replaced with the following restrictive condition:

- (1) The premises shall be used for non-food retailing only and for no other purpose within Class A1...but this condition shall not prohibit incidental sales of food which are wholly ancillary to a non-food retail operation.

### ***1991 planning consent***

A subsequent planning consent for Unit 1 was granted in 1991 (our ref: **J/51693**) for *"Alterations and extension to form separate retail units. Garden Centre to be re-positioned to rear of Unit 1."*

### **1998 planning consents**

As mentioned above, planning permission was granted in 1998 (our ref: **J/69473**) for *“Discharge of condition 23 of consent J/38226 and replacement with revised condition”* which imposed the following condition preventing food retail from The Peel Centre other than small scale, ancillary food sales:

- (1) The premises shall be used for non-food retailing only and for no other purpose within Class A1...but this condition shall not prohibit incidental sales of food which are wholly ancillary to a non-food retail operation.

A subsequent planning consent for Unit 1A was granted in 1998 (our ref: **J/70069**) for *“Variation of condition 28 of J38226 to allow installation of a mezzanine floor”*

### **2002 planning consent**

A further planning permission was granted in 2002 (our ref: **DC/007380**) permitting the subdivision of Unit 1 (formerly occupied by the Homebase store) as follows:

*“Removal of conditions 10 [see above], 19 [see above] and 28 [mezzanine restriction] on planning permission J038226 to allow for sub-division to three units, installation of mezzanine floor, provision of ancillary coffee shop and external alterations.”*

This development has been implemented and the three units are currently occupied by H&M (unit 1b), Boots (Unit 1c) and Argos (Unit 1c).

Importantly, the planning permission is subject to conditions that:

- (2) prevent foodstuffs being sold; and
- (3) prevent the gross floorspace of each unit falling below 929m<sup>2</sup> or 10,000ft<sup>2</sup>

It should be noted that the current application is seeking consent for considerably smaller floorplates with ‘no more than one unit being less than 465m<sup>2</sup> and this unit would be no less than 279m<sup>2</sup>’ – the current unit size is 1672m<sup>2</sup>.

### **2019 planning consent – Former Toys R Us (6 Peel Centre)**

Planning permission was granted to development of Unit 6, (former Toys R Us store) to enable its conversion to The Range (now currently trading from the site), in March 2019:

*“Extension to the Use Class A1 retail unit, the introduction of a garden centre to the rear, introduction of an ancillary cafe, allowance for the sale and display of convenience retail goods, introduction of a sprinkler and associated enclosure, and other elevational changes.”*

This planning permission allowed a café and convenience/food sales equating to circa 11% of the extended unit’s floor area as follows:

- Reconfigure the unit internally and introduce a 184sqm ancillary café (A3)
- Allow up to 372sqm of the resultant unit to be used to sell convenience goods/food items (the existing unit only has consent to sell non-food items)

Conditions were imposed limiting the use of floorspace accordingly.

This consent demonstrated that the Council is willing to take a flexible and pragmatic approach whilst retaining the long-established overall shopping hierarchy in the town centre.

### **NEIGHBOUR'S VIEWS**

7 neighbour notification letters were sent to nearby businesses.

The application was also publicised as a ‘departure from the development plan’ in the Stockport Express and by posting a site notice adjacent to the site.

No representations have been received.

## **CONSULTEE RESPONSES**

### **SMBC Highways Engineer**

No objection, noting that in the context of the Peel Centre, the traffic and parking generation of three small units should not be materially different to that generated by one larger unit. In addition, sub-division of the units should have no material impact on how the site is serviced.

### **SMBC Drainage Engineer**

No objection but advise that property level protection methods should be employed to better protect this retail unit from flooding.

### **SMBC Planning Policy**

In terms of the adopted UDP, the site falls within the TCG2.2 Portwood Street Area which is beyond the Central Shopping Area but within the Town Centre. This is the starting point for assessing the application although the NPPF is more up-to-date and as such carries more weight.

Under national planning policies, the proposed uses for the units are main town centre uses (use classes not identified but it mentions current A1 and flexibility for food goods). It is within the town centre boundary in the UDP and continues to be recommended as such in the emerging retail study. As such it is in the Town Centre and no sequential test is required, thereby meeting Paragraph 86 of national policy. In terms of size, the unit to be subdivided is 1672 sqm and it is proposed this would be split into a maximum of three units. Only one unit will be less than 465sqm and this will be between 279sqm – 465 sqm. Unit 1B and any subdivided unit would fall below the NPPF default threshold of 2,500sqm for a retail impact assessment. The emerging retail study recommends a 1000sqm threshold for the town centre.

However, as the site is within the town centre boundary and is not a retail/leisure development outside of a town centre the impact assessment is not applicable in any case. As such, Paragraph 89 of national policy is also judged to be met. It is mentioned within the Planning Assessment that the current size of the unit is 'unusual in today's market'. The retail study does not offer any guidance on appropriate floorplate size and so it would be helpful to understand what evidence lies behind this particular statement.

It is recognised that the existing UDP policies prioritise the Central Shopping Area over the Great Portwood Street Area in which the application sits, and that there are concerns that the proposal would encourage competition with the Merseyway Shopping Centre when existing policies and previous restrictive conditions on the site sought to prevent this from happening. However the NPPF now has a more flexible approach to town centres which allows 'main town centre uses' to exist not just within the primary shopping area but also in the wider town centre and so there is a conflict with national policy in this regard. Only moderate weight can therefore be attached to the UDP and so the NPPF takes precedence.

Whilst emerging evidence indicates that vacant units in the centre should be focused on, particularly in respect of comparison goods, and that reoccupation of existing units in the primary shopping area should be supported, this is explicitly preferred to new floorspace in edge of centre/out of centre sites and I would argue it does not strictly apply in this case.

## **Conclusions**

Whilst not located in the sequentially preferable central shopping area, in the absence of an up to date plan the site is within Stockport Town Centre as currently defined. Therefore in terms of applying the sequential test the application relates to a main town centre use already operating as an A1 retail use and with no extension of floorspace sought, within an existing town centre. The proposal requests flexibility and is in line with national policy in this regard.

It is also worth noting the intention to introduce significantly more housing in the town centre itself and adjacent areas which are likely to generate greater demand for retail development including food. Location wise the retail park is likely to be reasonably well placed in terms of reducing need to travel for new and existing residents living in and around Stockport town centre as well as being accessible to bus services and provision of existing car parking spaces for those travelling in from further afield, including those making linked trips.

## **SMBC Head of Regeneration**

In 2016 Stockport Metropolitan Borough Council (SMBC) bought the Merseyway Centre, which is the main shopping centre in town. This retail asset comprises 103 units over approx. 300,000 sqft. Within the town centre there are also a host of other retail units in private ownership.

The acquisition of the Merseyway Centre by the Council was part of a strategy to arrest decline in the town centre, and take a longer term management programme to support and nurture the town centre. This is to support economic regeneration and underpin a transformation into a successful town centre. The Council would be concerned about any redevelopment proposals that threatened to compete with the town centre and attract retailer occupiers to non-town centre locations thus leading to increased vacancies.

From a town centre perspective a successful Stockport Retail Park (Peel Centre) should support the town centre and the town centre retail offer. The Retail Park is at the edge of the town centre as opposed to an out of town competing site. There is an argument that the Retail Park forms a separate but beneficial and complementary addendum to the town centre. Shoppers can walk between the two locations which increases dwell time and potential financial spend within the town.

Retail units within the town centre, both in the SMBC owned Merseyway Centre and private ownership, are generally of a smaller size to the larger retail floorplates offered at the Stockport Retail Park /Peel Centre. This has resulted in different retailers being attracted to the differing 'offers' that the two locations provide.

In general the retail tenants interested in the town centre would not be able to be accommodated in the Stockport Retail Park/Peel Centre, and similarly there would only be a few locations in the town centre that retail tenants interested in the Retail Park/Peel Centre could be accommodated. Again reflecting the current broadly complementary nature of the two locations.

At present vacancy in the Merseyway Centre stands at 18 units or c.60,000 sqft. This is 20% vacancy by floor area. In very broad terms this crudely equates to an average vacant unit size 310 sqm (3,300 sqft), in reality a range of unit sizes are vacant. Depending on current trends in retail occupation, offset by proactive asset



management in future this vacancy figure could be lower, or higher. It is difficult to predict accurately changing market trends and requirements.

The potential for the applicant to create a 279 sqm (3,000 sqft) unit at the Retail Park/Peel Centre would result in direct competition for a tenant on an area requirement but it would be on a single basis which would not cause any perceived material harm to the town centre.

## **Conclusion**

In this individual case, at this point in time, the subdivision as sought by the applicant is unlikely to harm the town centre, or Merseyway due to the slightly different nature of tenants that would be attracted to the Retail Park as opposed to the core town centre. To reiterate, as an individual unique occurrence.

Depending on the unit sizes the applicant decided to pursue there could be a potential minor conflict with competing tenant interest. In general the larger floorplate unit sizes offered at the Retail Park are larger than the standard in the town centre and as such there is less competition. With this application in the event a 279 sqm (3,000 sqft) unit was created there are units of this size in the town centre. However on a unique one off occasion this could be acceptable.

The smallest unit sizes that Peel L&P could deliver if they were successful with this application would be a 279 (3,000 sqft), a 466 sqm (5,014 sqft), and 928 sqm (9,986 sqft).

The desire for flexibility with the subdivision in terms of there isn't a single configuration split being sought makes it harder to comment specifically. However taking the above split as the example that could compete most with town centre retailers, in a single isolated case, this could be acceptable.

On balance the letting of potentially a 279 sqm (3,000 sqft) tenant at the Retail Park and not in the town centre and the letting of a 1,354 sqm (14,564 sqft) unit to a tenant at the Retail Park would more likely benefit the core town centre retail offer than a 279 sqm (3,000 sqft) letting in the town centre and a vacancy of c.1,675 sqm (18,000 sqft) at the Retail Park/Peel Centre.

## **ANALYSIS**

### **Overview**

The NPPF sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development.

Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

### **Principle**

The site is located in the TCG2.2 Area of Stockport Town Centre. Saved UDP Review policy TCG3 indicates that the TCG2.2 Area is within the town centre, but outside of the Central Shopping Area for A1 use, and as such, would only be

permitted if the proposal meets the need and sequential tests. The proposals also need to be consistent with Core Strategy policies CS5, AS-1 and CS6 unless other material considerations outweigh the harm.

As identified, the site is located in the TCG2.2 area of Stockport town centre, and whilst it is recognised that the existing UDP policies prioritise the Central Shopping Area over the Great Portwood Street Area and seeks to ensure that development within the area does not encourage competition with the Central Shopping Area, specifically Merseyway Shopping Centre, it does recognise that market demand plays an important role, which is especially relevant having regard to the age of the policy. Whilst the local policy position is clear, especially regarding food retail, the NPPF has a more flexible approach to town centres which allows 'main town centre uses' to exist not just within the primary shopping area but also in the wider town centre, and as such, having regard to the NPPF the proposal would be compliant. Whilst not located in the sequentially preferable Central Shopping Area, in the absence of an up to date plan the site is located within Stockport Town Centre as currently defined. There is, therefore, no requirement to apply the sequential test as set out in NPPF paragraph 86 (in any case, the application relates to a main town centre use already operating as an A1 retail use and with no extension of floorspace sought and so the sequential test would not apply even if it were not within a town centre). The proposal requests flexibility and is in line with national policy in this regard.

Based on the NPPF position only moderate weight should be apportioned to the saved UDP Review policy. Further, it is worth specifying the changes to the Use Class Order which provide for greater flexibility for Town Centres (coming into force on 1<sup>st</sup> September 2020) which gives notice of the direction of travel and indicates that greater flexibility to uses within the town centre should be allowed. Members will note that the development does not propose any increased floorspace, moreover, the subdivision of an existing unit. Whilst some units could be accommodated within the town centre, and as such, could be deemed to be in competition with the town centre, it is considered that through additional footfall and linked trips to the Central Shopping Area that the Peel Centre, and additional offer the subject of this application helps assist with the vitality and Viability of the Town Centre as a whole, and as such would comply with CS5 and AS1 of the Core Strategy and the NPPF. Based on the NPPF the proposals should be supported, a position also echoed by the Head of Regeneration for the Council.

Having regard to the current use, the lack of any additions to the floorspace, the lack of an up to date plan, the compliance with the NPPF, the emerging changes to the Use Class Order and direction of travel for flexibility it is considered that the proposal is acceptable on balance and should be approved.

It is also worth noting the intention to introduce significantly more housing in the town centre itself and adjacent areas which are likely to generate greater demand for retail development including food, and as such, the location of the retail park is likely to be reasonably well placed in terms of reducing need to travel for new and existing residents living in and around Stockport town centre.

## **Highways**

The subdivision of the unit should not result in a material increase in vehicle movements on the local highway network, nor generate a parking demand that is significantly different from the existing larger unit, nor impact on the way the units are serviced. It is noted that a significant proportion of visitors are likely to be existing

customers to the Peel centre therefore there are likely to be a significant number of 'linked-trips' to support the overall vitality and viability of the town centre as a whole. In addition, as previously noted the site is also within walking distance of the main town centre and is accessible by public transport.

## **Conclusion**

It is considered that whilst not according with local saved policies of the UDP Review, the proposals would be in general accordance with the Core Strategy with regard to overall vitality and viability of the town centre and in full accordance having regard to the NPPF and direction of travel for greater flexibility and changes to town centres. It is considered that the smaller units would not have a significant detrimental impact on the main town centre and as such should be supported.

## **RECOMMENDATION**

It is recommended that planning permission is granted for subdivision of the unit.

## **CENTRAL AREA COMMITTEE (20/08/2020)**

The Planning Officer summarised the report, outlining that the NPPF is significantly more flexible than Stockport's Development Plan: - allowing 'main town centre uses' not just within the Central Shopping Area but anywhere within the wider Stockport Town Centre including the Great Portwood Street Area. The applicant spoke in favour, restating the need for flexibility to attract new occupiers should the unit become vacant. Committee acknowledged that whilst representing a Departure the proposal accords with the NPPF and resolved to recommend that permission be granted.