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Sequential Approach to Development

At

Spotland Bridge Mill, Rochdale

On behalf of

The Howarth Brewing Co

Prepared by
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Date **January 2024**
Ref: RM/Spotland Bridge

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1 Introduction

- 1.1 This statement has been prepared on behalf of Howarth Brewing Co, in respect of a proposal to convert part of the ground floor of the existing Mill to a microbrewery and brewery tap area including installation of new windows and re-instatement of doorways to north and east elevations
- 1.2 The Local Planning Authority – Rochdale Council have registered the application and given it the reference 23/00229/FUL but have requested that the applicants provide commentary upon the Sequential approach to “Town Centre” uses in relation to this proposed change of use.
- 1.3 The following sections of the statement provide a description of the site and its surroundings; details of the proposal, alongside a sequential assessment drawing an overall conclusion of the site’s suitability and availability.
- 1.4 This statement demonstrates that the location of the proposal is justified having regard for the general principles of the sequential approach set out in paragraph 91 of the National Planning Policy Framework (2023) and advice contained with National Planning Practice Guidance whilst taking into account the requirements of the Rochdale Core Strategy. There are no sequentially preferable sites which are both available and suitable to deliver the development proposed whilst also demonstrating reasonable flexibility
- 1.5 As contextual background it is worthy of note that the Howarth Brewing Co is a family-owned group of small bars and restaurants based in Rochdale. The company currently operates the following:-
 - The Hop & Vine and Cap & Whippet on Edenfield Road Norden;
 - Vicolo Del Vino , The Butts Rochdale; and
 - The Pint Pot 8 Baillie Street Rochdale
- 1.6 The proposal to open a micro-brewery at Spotland Bridge Mill will deliver further investment into the Rochdale economy.

2. Site Description & Location

- 2.1 The Site of the Mill building and its general location will be known to the Council and we do not therefore propose to provide a detailed site description. The site is a Grade II listed building. We do not propose providing a description of its heritage significance as this is provided in other reports which accompany the applications relating to Spotland Bridge Mill. The Site contains several buildings and a large area of hardstandings. The location of the site the subject of this Statement is shown in the Plan attached as Appendix A.
- 2.2 The proposal the subject of this Statement involves the conversion of a small component of the ground floor of the Mill into a micro-brewery with ancillary “Tap” area.
- 2.3 The Mill lies approximately 1km to the north west of Rochdale town centre within the existing urban area. The Mill and the site upon which it sits is previously developed land. The Mill lies in an accessible location being less than 150m from a bus stop which provides access to a high frequency bus route.
- 2.4 The Mill historical use has been for uses falling within Classes B1, (now E(g)) B2 and B8 of the Town & Country Planning Uses Classes Order.
- 2.5 Historically the Mill has been granted both planning and listed building consent in the past to allow its conversion to residential apartments. The current proposals for Spotland Bridge Mill Ltd envisage that the Mill will remain in active employment use. An active employment use is consistent with its historical development and therefore has heritage benefits to the understanding of the building context and purpose and delivers long term employment opportunities for the town.

3. The Proposal

- 3.1 Before coming to the Sequential approach, itself it is helpful to understand the nature of the proposed use. A microbrewery is, as the name suggests, a small brewery usually specialising in a very small number of beers and craft ales. Unlike large breweries which are geared towards mass production, a microbrewery concentrates on the overall craft of their products. Beers from one of these smaller brewers are usually developed to have a distinct flavour or have been crafted in a particular way to make it very different to your standard pulled a pint, not least in their names and packaging which is frequently creative.
- 3.2 The primary function of the proposed unit will be for the manufacturing and production “craft” ales and beers. In addition, the proposal will involve an ancillary area given over to consumption of the produce manufactured in the site known as a “Tap” area. It is important to recognise that the proposed Tap area is not a separate “planning unit”. It is necessary to support the financial viability of brewing process but can not be disaggregated from the main brewery function.
- 3.3 It is worth when considering the sequential approach to town centre development to start with the basic principles. In England and Wales, the development of land requires planning permission (Town and Country Planning Act 1990 (the Act), s. 57). The statutory definition of ‘Development’ includes a material change of use (Act. s. 55). However, this is subject to two important exceptions:
- 3.4 Subsection 55(2)(d) of the Act expressly excludes from the definition of ‘Development’: “ the use of any buildings or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such”. It also excludes a use which is ancillary to the main use of land. Thus where a use is ancillary to the main use a proposal to provide the ancillary use does not constitute a material change of use (*Williams v Minister of Housing and Local Government* (1967) 18 P & CR 396).
- 3.5 In light of these two exceptions, in deciding whether or not an alleged material change of use requires planning permission, the decision maker needs to answer two questions: First has a material change of use taken place, and second if so, is that change of use incidental or ancillary to the primary use of the land (*Wallington v Secretary of State for Wales* (1991) 62 P.& C.R. (1990))?
- 3.6 Determining whether there has been a material change of use is a question of fact and degree, and the focus of the investigation must be on the character of the use (*East Barnet UDC v British Transport Commission* [1962] 2 QB 484).
- 3.7 In many cases, the change in character is obvious: e.g. operating a corner shop from the front room of a house (a retail use) is clearly very different in character from a normal residential use of the same room (e.g. watching television, relaxing or entertaining friends).
- 3.8 However, some changes of use are less obvious. For example, the difference in character between use of a house by an individual or family as their long-term home and letting out the same property to holiday guests. In these borderline cases, the planning decision maker assesses whether there is a material change in the planning impacts of the use, in particular on neighbouring properties (*Devonshire CC v Allens Caravans (Estates) Ltd* (1962) 14 P & CR).

- 3.9 By way of example, the case of *Sheila Moore v Secretary of State for Communities and Local Government* [2012] EWCA Civ 1202, (a case which concerned the use of a dwelling house for commercial holiday lets) is often quoted, particularly because of the Judge's comment that *"Neither of the two extreme propositions – that using a dwellinghouse for commercial holiday lettings will always amount to a material change of use, or that use of a dwellinghouse for commercial holiday lettings can never amount to a change of use – is correct"*.
- 3.10 Having established that there has been a material change of use, the next question is whether that change of use is 'incidental' or 'ancillary' to the primary use of the land.
- 3.11 The important point to note here is that irrespective of whether the question is raised in respect of a dwelling under s. 55(2)(d) or in respect of an ancillary use of some other property, this is an 'objective' test, that is to say to fall within s. 55(2)(d), the activity needs to be reasonably incidental to a normal use of the dwelling house as a dwelling house.
- 3.12 In respect of non-domestic properties, an ancillary use needs to be incidental not just to the particular property in question, but reasonably incidental to the normal use of the general type of property.
- 3.13 In non-domestic properties, the point was made by Schiemann LJ in the case of *Harrods Ltd v Secretary of State for the Environment, Transport and the Regions* (a case about whether landing a helicopter on the roof of Harrods as the preferred mode of transport of its owner was ancillary to the running of the shop): *"It is not appropriate to concentrate on what is incidental to this particular shop, given the way it is run, and given its needs. The right approach is to see what shops in general have as reasonably incidental activities"*.
- 3.14 In *Sage v Secretary of State for Housing, Local Government and Communities* [2021] EWHC 2885 (Admin) the above principles were discussed as was the fact that what is normal at any point in time is liable to change.
- 3.15 The case was a challenge to an Inspector's decision that operating a commercial gym from a shed in a homeowner's garden constituted a material change of use requiring permission, notwithstanding that there was no evidence of adverse impacts.
- 3.16 In upholding the Inspector's decision, Ouseley J stressed that: *"... a material change of use can be made without any adverse environmental impact at all. Treating environmental impact as the seemingly crucial issue for the judgment as to whether a material change of use has occurred, or a purpose is reasonably incidental is not consistent with clearly established law. The crucial test is whether there has been change in the character of the use"*.
- 3.17 Aside from the obvious point that Ouseley J made namely, some changes in the character of a use are so obvious that there is no need to consider further any related planning impacts from the change), it is also worth noting that Ouseley J considered that environmental impacts were relevant in deciding whether a material change of use is reasonably incidental to the primary use
- 3.18 Ouseley J also touches briefly on a variety of 'services' which are commonly offered from a person's home, such as private tuition (including in music), childminding and a range of medical services. Particularly where offered on a commercial basis, these are material changes of use, but equally uses which since time immemorial have been offered from people's homes. Doubtless in deciding whether such uses are reasonably ancillary on a case-by-case basis, a

decision maker will need to consider the extent of any related environmental impacts and the extent to which those fall outside the norm.

- 3.19 Finally, Ouseley J noted that “*what is normal or reasonably incidental now may have shifted with changes in work habits as a result of Covid*”. This is a welcome reminder that what was unusual yesterday may become the norm today or tomorrow.
- 3.20 Deciding whether or not a change of use is either material or reasonably incidental to the normal main use of a property is difficult. However, it is a helpful reminder that not all material changes of use will have obvious amenity impacts, that environmental impacts can be relevant in deciding whether a material change of use is ancillary to the main use of the property, and that what is ‘normal’ will inevitably change over time.
- 3.21 In our view the provision of an ancillary area to allow for tasting, demonstration and educational activities is not likely to have any differing environmental impacts to those of the actual manufacturing process, lending weight to the argument that it is an ancillary use
- 3.22 We note that the Council have concluded that the for the purposes of the sequential approach to town centre uses the two “elements” of the proposal namely the principal manufacturing element and the ancillary tasting, demonstration, educational element should not be disaggregated.
- 3.23 We agree that it would be inappropriate to disaggregate the two elements as the tasting, demonstration, educational element would not function without the principal manufacturing component, indeed the two elements are interlinked at the current site in Oldham.
- 3.24 Given that the two functions are interlinked it is necessary to understand the operational requirements of the main manufacturing use and the ancillary tasting, demonstration element

The main manufacturing use

- 3.25 Brewing beer involves several processes:
- 3.26 The brewing of craft beers begins with a single step. Malted grain is mixed with hot water in a process known as mashing. Dry barley, wheat and/or other grains are mixed into the water to form a glutinous substance known as mash.
- 3.27 As the malt is partly crushed before being soaked, the hot water can get into each individual kernel to expose the natural starches within. These starches are converted into sugars by the grain’s own enzymes. It is these sugars that will be used later by the yeast as a food source so they can produce alcohol and carbon dioxide.
- 3.28 The next stage is to remove the solids behind. More water is added to the top of the grain bed and allowed to percolate through – carrying the liquid with it. This stage is either done in the original mash tun or in a separate vessel called a lauter tun but will need a perforated base to let the liquid escape.
- 3.29 At first the run-off, which is now known as wort, will be cloudy thanks to unwanted grain husks and other particulates. Brewers commonly reintroduce these first “runnings” back onto the top of the grain bed to filter it even more. The lauter process is continued until the wort runs clear.
- 3.30 The wort is then transferred into another large vessel and heated. Known as the kettle, the wort will vigorously boil away here for well over an hour – exactly how long depends on the beer style.

This prolonged heating stops the enzyme activity from the mash stage, fixes the amount of sugar that will become available to the yeast, and sterilises the wort at the same time. Anything that touches the beer from this stage on will have to be sterile.

- 3.31 The boil stage is also typically where the hops are added. Hops can be added at the Lautering stage too (and sometimes even the mash) to increase the flavour profile. That's because the heat alters the internal structure of the hops, releasing alpha and beta acids, and carefully timed additions can give different results. Add hops earlier, you get more bitterness. Later additions are more for aroma and flavour.
- 3.32 Once the boil is done, the wort is cooled and then transferred yet again. Once pitched into the Fermentation Vessel (FV) yeast is added. The more sugars the brewer has allowed to be carried over into the FV the greater the Alcohol By Volume ABV of the final beer. Some of the by-products of fermentation are desirable (ethanol and carbon dioxide) and others are not (compounds that make beer taste appalling, like diacetyl). During the next stage the brewer has to let the beer condition (also sometimes called maturation). The yeasts calm down and re-absorb some of the unwanted compounds, then settle out to the bottom of the FV
- 3.33 Conditioning can be done at different temperatures. The aim of this final part of the brewing procedure is to let the aromas and flavours of the beer (it is now beer) develop and round out over time. The conditioning stage can last from a few days through to months. The brewery will retain the beer for as long as it takes for everything to reach a peak. When they are happy, it goes to packaging. Once the fermentation process is completed, you have alcoholic beer! The beer can be put into a cask, keg, bottle or can depending on the style of beer for conditioning.
- 3.34 The practical implications of the above are that any property must have :-
- The ability to accommodate significant numbers of deliveries of raw materials (Barley / Hops) using HGVs
 - Have access to large quantities of fresh water and suitable drainage
 - The ability to accommodate the delivery and storage of Barrels within which the finished product is to be stored and distributed
 - Significant floor to ceiling heights to allow for the large brewing vessels
- 3.35 It is also worth noting that the micro-brewery will result in new employment opportunities to the benefit of the economy of Rochdale

3.36 The ancillary Tap

- 3.37 This facility is intended to be ancillary to the main manufacturing use. Experience of micro-breweries elsewhere is that providing a Tap area supports the economics of the brewery. It has also been It is however ancillary in terms of its function, size and the financial contribution to the operation in terms of turnover.
- 3.38 As we have identified above the Howarth Brewer Co own and operate existing bars and restaurants within the centers of Rochdale and Norden and therefore have no interest whatsoever in seeing the vitality and viability of the nearby centers adversely affected
- 3.39 The catchment from within which visitors are drawn is envisaged as being Rochdale Borough

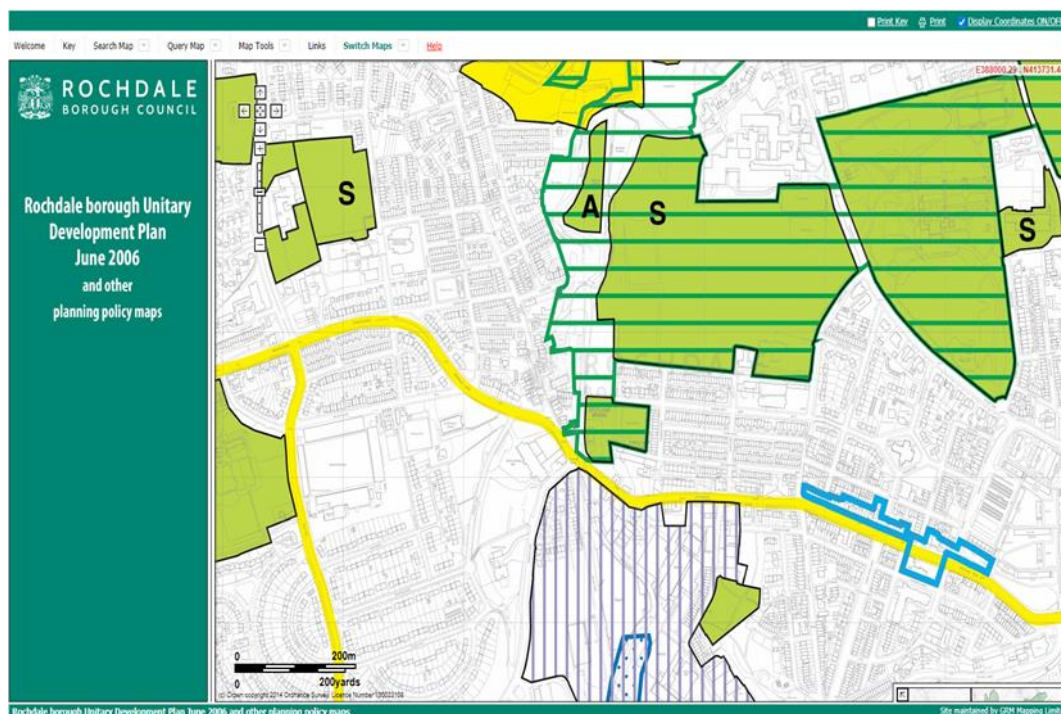
3.40 Despite the above in the light of the Council's request we have gone on to consider the policy background to the sequential test and undertaken an appraisal below.

4. Planning Policy

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise. In addition, government policy, principally the National Planning Policy Framework 'NPPF' published in February (2023), is material to the determination of planning applications. This is supplemented by National Planning Practice Guidance 'NPPG'.
- 4.2 In the case of Rochdale, the Statutory Development Plan is made up of several key Local Plan documents. In full the Development Plan for the area comprises: -
- The Rochdale Core Strategy adopted by the Council in October 2016;
 - The saved policies/ allocations of the Rochdale Borough Unitary Development Plan Adopted June 2006.
 - The Greater Manchester Joint Waste Development Plan published in April 2012; and
 - The Greater Manchester Joint Minerals Development Plan published in April 2013.
- 4.3 The local planning authority is involved in the preparation of several plans which will in due course replace those historic plans whose policies are currently "saved" these include: -
- The emerging Allocations Plan Development Plan Documents.; and
 - Emerging and adopted Neighbourhood Plans.
- 4.4 In addition, Rochdale Council is working with 8 other local authorities in Greater Manchester to create a joint spatial plan known as Places for Everyone [PfE]. PfE was submitted to the Secretary of State for Levelling Up, Housing and Communities in February 2022, and its Examination in Public commenced on 02 November 2022. Hearing sessions concluded on 5 July 2023 and the Inspectors issued IN39 on 11 September 2023 advising that they are satisfied at this stage of the examination that all of the proposed main modifications are necessary to make the Plan sound and/or legally compliant and would be effective in that regard. Consultation on the Main Modifications started on 11 October 2023 and closed on 6 December 2023. 174 representations were received in response to the Main Modifications consultation, and none raise any fundamental issues with the adoption of the Plan in its current form, as amended by the Main Modifications. Adoption of the Plan by all nine Councils is anticipated in February and March 2024. Consequently PfE is now at a very advanced stage in the plan making process and substantial weight can be attached to its policies
- 4.5 As discussed above also, of direct relevance are the policies and guidance set out on a national basis in the National Planning Policy Framework [NPPF] and Planning Practise Guidance [PPG]
- 4.6 In our view the in the context of the sequential test this does not raise issues relevant to Minerals and Waste Planning we accordingly make no further mention of these plans.
- 4.7 The Rochdale Core Strategy advises that: -

Sequential Approach (Retail and Leisure) - sets out a procedural approach in selecting sites for new retail and commercial leisure developments and other key town centre uses. It requires parties to demonstrate that first preference be given to town centre sites, followed by edge-of-centre sites, and only then by out-of-centre sites in locations that are, or can be made, easily accessible by a choice of means of transport. Only when these possibilities have been exhausted should retail development be allocated out of town.

- 4.8 The Rochdale Unity Development plan adopted by the Council in June 2006 shows the site unallocated on its policy maps. An extract from the proposals map is included below



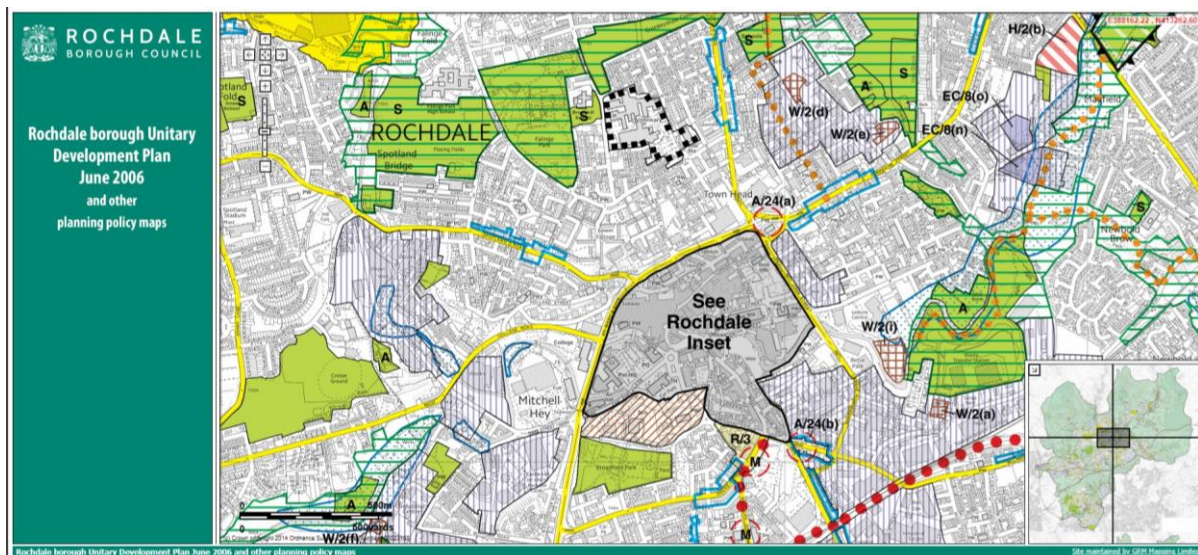
- 4.9 The nearest centre to the site is the Spotland Bridge Road centre.
- 4.10 It is also relevant to consider the extent of the Town Centre of Rochdale, this is shown on the extract below. In doing so, it is help to consider the definitions of various terms relating to the application of the Sequential Test. The definitions below are taken from the NPPF as follows

Town centre: *Area defined on the local authority's policies map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area. References to town centres or centres apply to city centres, town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance. Unless they are identified as centres in the development plan, existing out-of-centre*

developments, comprising or including main town centre uses, do not constitute town centres

Edge of centre: For retail purposes, a location that is well connected to, and up to 300 metres from, the primary shopping area. For all other main town centre uses, a location within 300 metres of a town centre boundary. For office development, this includes locations outside the town centre but within 500 metres of a public transport interchange. In determining whether a site falls within the definition of edge of centre, account should be taken of local circumstances.

Out of centre: A location which is not in or on the edge of a centre but not necessarily outside the urban area.



- 4.11 Thus, it is not appropriate to consider the entire area covered by the Rochdale Inset to be a "Town Centre" location. Rather based upon the NPPF definition given above the core town centre might reasonably be considered to be The Rochdale Riverside development and Yorkshire Street.
- 4.12 As discussed above the edge of centre locations would be those locations lying 300m from the primary core.
- 4.13 Turning to PpE this mirrors national planning policy stating: -

In accordance with national planning policy, it is appropriate for retail and leisure facilities to be directed towards designated centres wherever possible. This will help to maintain the vitality and viability of those centres, and their continued ability to meet the needs of residents

-
- 4.14 Finally in relation to national planning policy as set out in the NPPF deals with town centres and ensuring their viability in section 7 paragraph 91 states

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.

- 4.15 Finally National Planning Practice Guidance confirms that in applying the sequential approach to retail and leisure development “*The application of the test will need to be proportionate and appropriate for the given proposal*”.

5. Sequential Approach

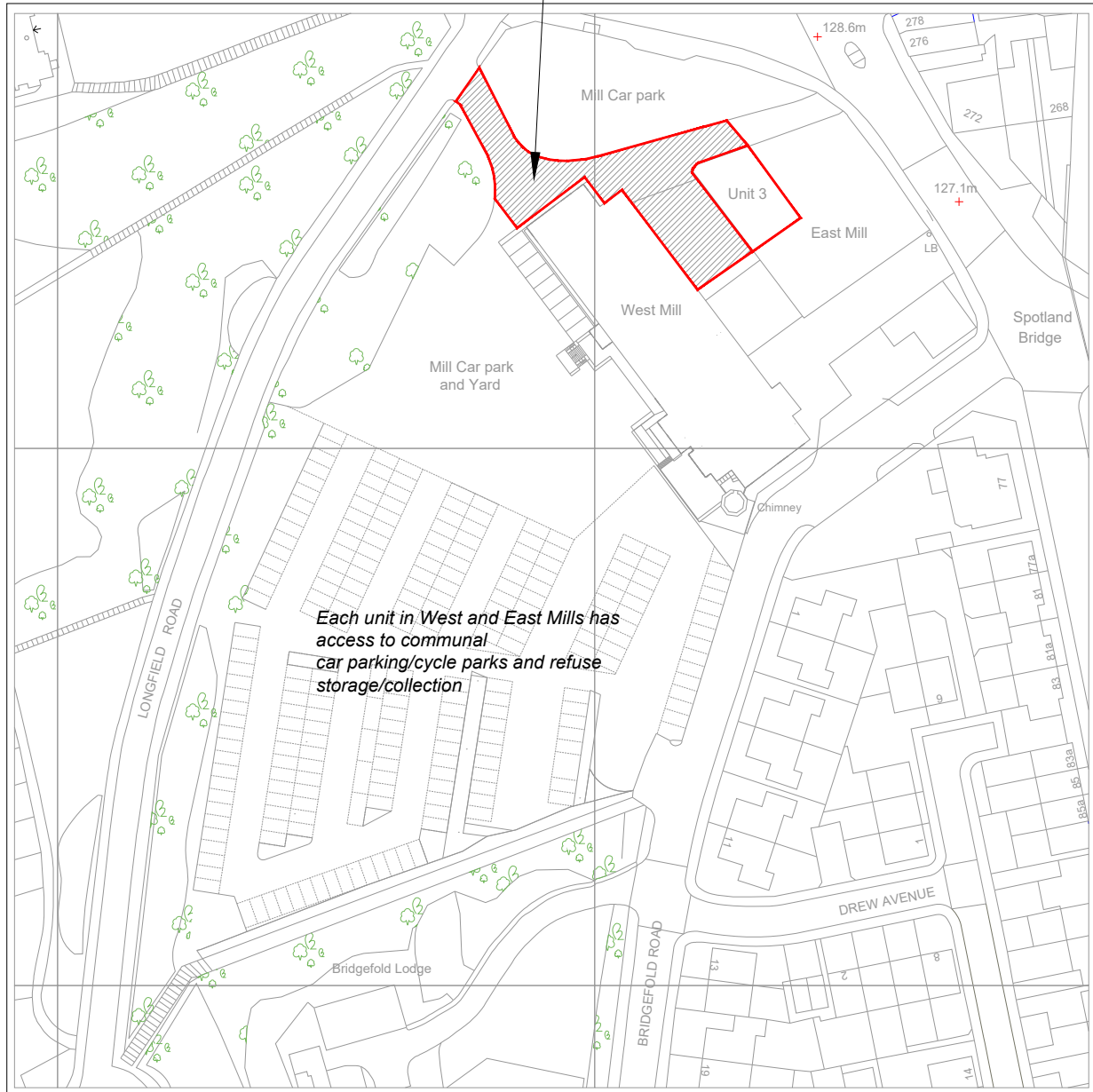
- 5.1 In considering the proposal it is important to have regard to the circumstances of its impacts upon the vitality and viability of existing centres. The proposed educational and tasting use is intended to serve a wide UK based catchment, it is however ancillary to the main manufacturing use. The proposal will involve inward investment into the economy of Rochdale.
- 5.2 We have assessed Rochdale Town Centre and those areas which lie within 300m of the core. We have attached as Appendix C an ariel view of Rochdale centre identifying the location, we consider to comprise the "Town Centre" as defined by the NPPF. We have considered this location and concluded that the only available properties are "traditional" vacant retail units, or retail units within the Riverside Development
- 49 Yorkshire Street
 - 38 Yorkshire Street
 - 52-56 Yorkshire Street
 - Unit 2 Market Way – The Exchange Shopping Centre
 - Unit 29-30 Market Place - The Exchange Shopping Centre
 - Unit 17 Market Way – The Exchange Shopping Centre
 - Units within Rochdale Riverside
- 5.3 We consider that traditional retail units are entirely inappropriate given the nature of the proposed use. The importation of raw materials and the export of barrels of beer could not be efficiently achieved within the sites identified above. Further we are aware that, the Riverside regeneration involves the development of 242 residential apartments. We consider the proposed manufacturing by use would be inappropriate having regard to residential amenity.
- 5.4 None of the identified units offer the space and configuration needed to be able to offer the appropriate environment within which to undertake the proposed use.
- 5.5 Turning to edge of centre locations we have been unable to identify any accommodation which could be remotely considered appropriate

Conclusion

- 5.6 In the light of the forgoing having considered the proposed use its nature, the fact that the ancillary educational and tasting areas cannot be disaggregated from the primary manufacturing use, we believe that the Spotland Bridge Mill is entirely suitable in the context of the sequential approach to retail development.

Appendix A – Site Location Plan

Access for vehicles and pedestrians shown hatched.



Location Plan



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project **Proposed microbrewery and brewery
tap unit 3 Spotland Mills,
Spotland, Rochdale**

client

Mr. M.Howard

scale - **1:1250**

size - **A4**

date - **Sept. 2022**

drawn - **NL**

drawing No

rev

H474-03

Appendix B – Rochdale “Town Centre” based upon NPPF Glossary

Rochdale Town Centre



created on **edozo**

Plotted Scale - 1:2,500