

Application No: 12/0831N

Location: Land to the North and South of Maw Green Road, Coppenhall, Crewe

Proposal: Outline planning permission for the erection of 165 dwellings on land to the north and south of Maw Green Road, Crewe. Access is proposed via a new roundabout off Maw Green Road.

Applicant: Richborough Estates

Expiry Date: 30-May-2012

SUMMARY RECOMMENDATION:

Amend trigger of Condition 48 and Section 106 payments from 50 dwellings to 73 dwellings

1. SITE DESCRIPTION

The application site measures 9.59ha (23.7 acres) and is located in the suburb of Maw Green. The site is situated on the residential edge of maw green and is on the north eastern edge of Crewe. The site comprises an irregularly shaped piece of land, divided into two areas, located to the north and south of Maw Green Road.

The southern site predominantly comprises open rough pasture consisting of a number of fields with hedgerow boundaries. Areas of mature trees are present in the south west corner.

The northern site comprises two distinct portions in the west and east. The western portion comprises further areas of rough pasture and paddocks. An area of mature trees and a pond is present in the south east corner, together with a number of barn type structures. The eastern portion of the site comprises a former landfill site. The application site generally slopes from north to south.

The site area is bounded to the north by residential dwellings and farm buildings, and the remainder of the landfill site, to the north east by land associated with the landfill site, to the east and south east by agricultural land beyond which is the Crewe – Manchester railway line with open agricultural land beyond, the southwest by the rear of residential properties and open countryside beyond. This area has recently secured a resolution to grant planning permission for 650 dwellings as part of the Coppenhall East development.

2. DETAILS OF PROPOSAL

Outline planning permission is sought for the erection of 165 dwellings. Approval is also sought for means of access with all other matters, including appearance, landscaping, layout and scale, reserved for a subsequent application. Access is proposed via a new roundabout junction on Maw Green Road, providing access to the two parcels of land to the north and south of the road.

Members may recall that at its meeting on 22nd August 2012 Strategic Planning Board resolved to grant delegated powers to the Development and Building Control Manager to approve subject to conditions; consultation with and no objection from Environmental Health and Cheshire Brine and Subsidence Compensation Board and completion of a Section 106 Legal Agreement to secure:

- 10% affordable housing (20 dwellings), on a tenure split of 75% intermediate tenure and 25% rented, (either social rented dwellings let at target rents or affordable rented dwellings let at no more than 80% of market rents)
- Provision of affordable housing prior to 80% occupation of the open market housing
- Transfer of any rented / shared ownership affordable units to a Registered Provider
- Affordable house scheme to be submitted at reserved matters
- Affordable homes to be let or sold to people who are in housing need and have a local connection. (The local connection criteria used in the agreement to match the Councils allocations policy.)
- Public Open Space scheme to be submitted at reserved matters
 - Provision of play area / five-a-side pitch
 - Provision of detailed specification for play area to incorporate :
- 8 pieces of play equipment should be provided.
 - 5 a side pitch (600sqm)
 - NEAP (2,620sqm)
 - Durable retaining walls – concrete or brick
 - porous wet pour safer surfacing.
 - concrete steps to the bank
 - the slide to be set in concrete
 - Two bins with one being provided on each level.
 - Metal bow top railings are required; pedestrian access gates in the same style but a contrasting colour to the railings.
 - Gate to be outward opening, with rubber caps on the clapping side and have a mechanical self-closing mechanism.
 - NEAP to provide seating; bicycle parking and appropriate signage.
- Provision for a management company to maintain the on-site amenity space / play area / ancillary areas, ponds, woodland planting / nature conservation areas / other open space.
- Provision of open space by 50% occupation and transfer to management company by 75% occupation.
- The above areas to be made available for use by the general public except where this would conflict with the approved ecological mitigation / management plan.
- Management plan for landscaping /public open space/ wildlife mitigation areas in perpetuity to be submitted at reserved matters
- Education Contribution of £292, 850.
- Commuted sum of £1500 to barn owl group
- Highways Contributions: -
 - Maw Green Road Signage Scheme – £20,000 (on occupation of 50th dwelling)
 - Crewe Green Roundabout – £60,000 – (on occupation of 50th dwelling)

- Sydney Road bridge - £ 1,082,000 – (£50k be paid on commencement with remainder on occupation of the 50th dwelling)
- Public Transport Contribution - £12,000– (on occupation of 50th dwelling)

The applicant is now seeking to amend the terms of the previous resolution as follows:

- To change to the triggers for the highways contributions in the Section 106 agreement from the 50th dwelling to the 73nd dwelling.
- Amend trigger of Condition 48 from 50 dwellings to 73 dwellings
- Add “unless otherwise agreed in writing with the Local Planning Authority” to condition 48.

3. RELEVANT HISTORY

12/0831N Outline planning permission for the erection of 165 dwellings on land to the north and south of Maw Green Road, Crewe. Access is proposed via a new roundabout off Maw Green Road. – Resolution to approve 22nd August 2012

4. PLANNING POLICIES

N/A

4. OBSERVATIONS OF CONSULTEES

Highways – No objection

5. VIEWS OF THE PARISH / TOWN COUNCIL

No additional responses received

6. OTHER REPRESENTATIONS

No additional responses received

7. APPLICANT’S SUPPORTING INFORMATION:

Supporting letter

A letter has been submitted by the applicant making the following points:

- Members of the SPB were particularly keen to see an early commencement of the scheme and reduced the time limit for implementation accordingly. The applicant has expressed concern that condition 48 (as listed in the minutes) which prevents the occupation of more than 50 dwellings until the new roundabout at the Maw Green Road/Elm Drive/Groby Road junction has been brought into use, together with the related triggers for the payment of some of the related Section 106 contributions, effectively renders the permission undeliverable with specific concerns being as follows:

- The roundabout is to be constructed by Taylor Wimpey as a condition of its consent for Coppenhall East, a fact that was specifically mentioned in the committee report for the proposal. As such, the timing of the construction and the “*bringing into use*” of the roundabout as referred to in condition 48 as drafted is wholly outside of Richborough’s control. This makes the condition unreasonable and also potentially ultra vires by reference to the advice in Circular 11/95, because it requires works which they do not have the power to undertake.
- Construction of the roundabout is likely to be triggered at completion of around the 200th dwelling on Coppenhall East. It will be several years before Coppenhall East delivers the 200th dwelling from when the development eventually commences especially as to-date the decision has yet to be issued. As such, there can be no certainty when the Maw Green Developer would be able to construct for occupation the 51st dwelling at Maw Green. Therefore, Richborough consider that the condition is unreasonable and contrary to paragraph 206 of the NPPF. Furthermore, the condition by inference will frustrate the SPB’s primary goal which is to deliver the housing at the earliest possible opportunity since it renders the permission undeliverable.
- The development is split either side of Maw Green Road with the layout showing 73 dwellings on the south side of the road with a further 93 dwellings on the northern side. Richborough’s ideal would be to deliver the entire 165 units as one development project without there being any trigger mechanism preventing part of it from coming forward. However, the development could be split into two development phases relating to the parcels on either side of Maw Green Road. As such it is possible to bring forward and deliver each phase independently and whilst that is not Richborough’s ideal position it is one that could be pursued but only if the planning permission enabled the southern phase to come forward and be delivered in its entirety as it is not possible to artificially apportion the layout to deliver only 50 dwellings. Therefore, notwithstanding Richborough’s views on the legitimacy of condition 48, if the 50 dwelling limitation was increased to 73 to reflect the illustrative layout this would mean that the southern phase can be delivered.
- Not only is the limitation of 50 dwellings not reflective of the illustrative layout and would mean that no part of the permission would be deliverable, Richborough believe that there is no sound highway based evidence to substantiate the figure. Given that the Taylor Wimpey permission for Coppenhall East assumes that the junction can cope with up to 200 dwellings without the need for junction improvements, all of the Maw Green scheme could be delivered without there being a highway need to construct the roundabout. It is understood that the concern from Highways is that if the two schemes came forward together then 365 dwellings (200 at Coppenhall East plus 165 from Maw Green) would require junction improvements and therefore a total figure of 250 dwellings was derived but this was based upon no specific highway evidence to justify 250 being the maximum trigger. Realistically 73 dwellings from Maw Green will be constructed well before Taylor Wimpey can possibly deliver anywhere near 200 dwellings and therefore the threshold issue relates to the Coppenhall East development if Richborough is to be prevented from bringing forward our northern phase.

- If, there is no committee resolution imposing a 200 trigger on the Coppenhall East scheme then, as that permission is yet to be released, it is open for the Council to vary the trigger for Coppenhall East to take account of Richborough's proposals for Maw Green. As such there is no highway evidence to substantiate that a higher trigger of 73 dwellings rather than the proposed 50 dwelling trigger shouldn't be entirely acceptable.
- Although Richborough do not agree with the legitimacy of proposed condition 48, if the condition was varied to increase the limiting figure from 50 to 73 dwellings to reflect the illustrative layout then this would be sufficient to deliver the southern phase of the permitted development. Naturally this would need consequential changes to the other trigger mechanisms relating to the Section 106 payments to enable the southern portion to be delivered. As we discussed at the meeting, the normal approach to Section 106 payments is to base payments on 50% of the overall development and therefore this approach should be adopted here for the sake of consistency and to enable the first phase to be delivered.
- The applicant would also suggest that condition 48 is worded to allow for it to be varied if circumstances pertaining to the Coppenhall East proposal changes, given that the condition is intrinsically related to the delivery of that scheme. For instance if the Coppenhall East scheme is further delayed so that the northern phase can come forward earlier than presently envisaged, then the Council could vary the requirements of the condition to allow for the change in circumstances. Richborough would suggest the words "unless otherwise agreed in writing by the Council" be added to the condition.

Letter from David Wilson Homes

A letter from David Wilson Homes (an interested purchaser) to the applicant has been submitted in support of the proposal making the following points:

- David Wilson have a keen interest in acquiring the site
- The proposals offer an exciting opportunity to deliver a high quality development of substantial quantum in an area desperately in need of new quality housing to raise the stock profile value of the area specifically and Crewe generally.
- There are one or two conditions that they have difficulty in agreeing to
- Of particular concern is condition 48, which in its current form could potentially jeopardise the entire delivery of this scheme
- The condition itself would be ultra vires and is not within the Richborough gift to delivery but rather with Taylor Wimpey as part of their Coppenhall Scheme.
- This in itself would have the effect of placing a permanent third party ransom restriction upon the land and effectively mothball ad development before it is even implemented.
- The S106 agreement will require the payment of the highway contributions totalling £1.174m by no later than the 50th unit occupation, together with the full site provision of open space. This would also be a large impediment to the delivery of the development in terms of cash outflow and would quite conceivably equate to the entire development profits up to that stage of

construction, which would make the development unviable. Would suggest that Richborough seek to amend the trigger point and seek to push them back into the development programme, whereby the scheme profits can then afford to make the contributions.

- If this can be achieved David Wilson would like to prepare detailed purchase proposals.

8. OFFICER APPRAISAL

The NPPF stresses the importance of housing delivery and viability as a material planning consideration. Paragraph 173 states:

Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable

The applicant has provided evidence to demonstrate that the 50 dwelling trigger on condition 48 and the Section 106 payments would render the scheme unviable, including a letter from a house building interested in buying the site.

The NPPF also stresses the importance of housing delivery. One of the 12 Core Planning Principles at paragraph 17 states that planning should:

proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.

These sentiments were echoed by SPB Members who reduced the time limit for implementation of the permission. The applicant has demonstrated why the 50 dwelling trigger would delay delivery of the scheme and why delivery problems could arise if the Coppenhall East development does not come forward in a timely fashion. It is therefore considered to be reasonable to increase the trigger to allow the southern half of the development to commence without reliance on Coppenhall East and to add the words “unless otherwise agreed in writing” to condition 48 to allow flexibility to account for any future changes in circumstances on the Coppenhall site.

The applicant has also demonstrated why for practical reasons, it is sensible to use the figure of 73 dwellings (which equates to completion of the southern portion of the site) rather than an arbitrary figure of 50 as the trigger.

The applicant has also questioned whether there is any substantive highways evidence to suggest why a figure of 73 dwellings would generate a demonstrable and unacceptable level of additional harmful to highway safety / congestion than that which

would result from 50. It is noted that no highway objection has been relieved to the proposed amendment.

9. CONCLUSION

Given that the Strategic Highways Manager has raised no objection to this amendment, it is considered to be acceptable and is recommended for approval under the delegated powers granted to the Development Management and Building Control Manager subject to the same provisions as previously, with the exception of the amended triggers and addition of “unless otherwise agreed in writing with the Local Planning Authority” to the wording of condition 48.

10. RECOMMENDATIONS

Grant delegated powers to the Development and Building Control Manager to approve subject to conditions; consultation with and no objection from Environmental Health and Cheshire Brine and Subsidence Compensation Board and completion of a Section 106 Legal Agreement to secure:

- **10% affordable housing (20 dwellings), on a tenure split of 75% intermediate tenure and 25% rented, (either social rented dwellings let at target rents or affordable rented dwellings let at no more than 80% of market rents)**
- **Provision of affordable housing prior to 80% occupation of the open market housing**
- **Transfer of any rented / shared ownership affordable units to a Registered Provider**
- **Affordable house scheme to be submitted at reserved matters**
- **Affordable homes to be let or sold to people who are in housing need and have a local connection. (The local connection criteria used in the agreement to match the Councils allocations policy.)**
- **Public Open Space scheme to be submitted at reserved matters**
 - **Provision of play area / five-a-side pitch**
 - **Provision of detailed specification for play area to incorporate :**
- **8 pieces of play equipment should be provided.**
 - **5 a side pitch (600sqm)**
 - **NEAP (2,620sqm)**
 - **Durable retaining walls – concrete or brick**
 - **porous wet pour safer surfacing.**
 - **concrete steps to the bank**
 - **the slide to be set in concrete**
 - **Two bins with one being provided on each level.**
 - **Metal bow top railings are required; pedestrian access gates in the same style but a contrasting colour to the railings.**
 - **Gate to be outward opening, with rubber caps on the clapping side and have a mechanical self-closing mechanism.**
 - **NEAP to provide seating; bicycle parking and appropriate signage.**
- **Provision for a management company to maintain the on-site amenity space / play area / ancillary areas, ponds, woodland planting / nature conservation areas / other open space.**

- Provision of open space by 50% occupation and transfer to management company by 75% occupation.
- The above areas to be made available for use by the general public except where this would conflict with the approved ecological mitigation / management plan.
- Management plan for landscaping /public open space/ wildlife mitigation areas in perpetuity to be submitted at reserved matters
- Education Contribution of £292, 850.
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- Highways Contributions: -
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 - Sydney Road bridge - £ 1,082,000 – (£50k be paid on commencement with remainder on occupation of the 73nd dwelling)
 - Public Transport Contribution - £12,000– (on occupation of 73nd dwelling)

And the following conditions:

1. Standard Outline (18 month time limit for commencement of development)
2. Submission of reserved matters
3. Plans
4. No approval for indicative layout
5. Breeding Bird Survey for works in nesting season
6. Bat, barn owl and bird boxes
7. Design and layout of open space/Nature conservation area
8. Design of proposed ponds
9. Submission and implementation of revised ecological mitigation proposals in support of reserved matters application.
10. Updated protected species survey prior to commencement
11. If, during development, contamination not previously identified is found to be present at the site then no further shall be carried out until the developer has submitted a remediation strategy
12. Removal of permitted development rights
13. The development shall only be carried out in accordance with the approved Flood Risk Assessment (FRA), ref. BMW/2011/FRA Rev. D, dated 17/05/2012
14. Limit on the surface water run-off generated by the proposed development, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
15. Provision of a scheme to manage the risk of overland flow of surface water during extreme rainfall events.
16. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.
17. Overland flow to be contained within the site, such that new buildings are not affected.
18. Reserved matters to make provision for houses to face waterfronts and footpaths

19. Reserved matters to make provision for green open spaces adjacent to any watercourses and ponds on site and provision and management of a 5 metre wide undeveloped buffer zone alongside the watercourse and ponds
20. Submission / approval and implementation of details of Sustainable Drainage Systems (SuDS).
21. This site must be drained on a total separate system, with only foul drainage connected into the public foul sewerage system. Surface water should discharge to soakaway and or watercourse. No surface water will be allowed to discharge in to the public sewerage system.
22. Only clean surface water from roofs and paved areas should be discharged to any surface water soakaway.
23. Submission of a scheme to limit the surface water run-off generated by the proposed development,
24. Submission of a scheme to manage the risk of flooding from overland flow of surface water has been submitted to and approved in writing by the Local Planning Authority.
25. The hours of construction of the development (and associated deliveries to the site) shall be restricted to: Monday – Friday 08:00 to 18:00 hrs Saturday 09:00 to 14:00 hrs Sundays and Public Holidays Nil
26. Should there be a requirement to undertake foundation or other piling on site, then a method statement which shall be submitted and approved.
27. Should there be a requirement to undertake “floor floating” (the process of mechanical smoothing of concrete to a floor area) the Local Authority Environmental Health Service should be informed of the details of the location, days / hours of work, and contact details of a responsible person prior to the onset of the work.
28. Floor floating operations should be restricted to within the following days / hours Monday – Friday 08:00 – 18:00hrs; Saturday 09:00 – 14:00hrs; Sunday and Public Holidays Nil
29. Prior to its installation details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. This shall include any proposed lighting of the 5-aside football pitch marked on the site plan.
30. A full and detailed noise mitigation scheme for protecting the proposed dwellings noise to be submitted and agreed.
31. The developer shall agree with the Local Planning Authority an Environmental Management Plan (EMP) with respect to the Construction phase of the development. The EMP shall identify all potential dust sources and outline suitable mitigation.
32. Programme of archaeological mitigation which should consist of a targeted watching brief during relevant operations (initial topsoil strip followed by the excavation of foundation trenches if required) in a 20m wide strip alongside the street frontage
33. At least 10% of predicted energy requirements from decentralised and renewable or low-carbon sources, unless it can be demonstrated that this is not feasible or viable.
34. Submission of boundary treatment
35. Submission of materials
36. Submission of landscaping, to include provision for tree planting to the rear of the existing properties on Sydney Road
37. Implementation of landscaping
38. Important hedgerows and trees to be retained and to be incorporated within reserved matters layout

- 39. Submission of tree and hedgerow protection measures**
- 40. Implementation of tree and hedgerow protection measures**
- 41. Replacement hedge planting**
- 42. Reserved Matters to include details of bin storage.**
- 43. Prior to first occupation provision of off-site highways works including:
Groby Road Zebra Crossing; Groby Road 1.5m footway; Maw Green Road
Zebra Crossing; Maw Green Road narrowing and footway; Maw Green
Road Roundabout; Site Access**
- 44. Replacement hedge planting**
- 45. Implementation of reptile mitigation**
- 46. Implementation of gas protection measures**
- 47. Implementation of contaminated land mitigation**
- 48. No more than 50 units to be occupied until the new roundabout at**
 - 1. Maw Green Road/Elm Drive/ Groby Road junction has been completed and brought into use**
- 49. Construction Management Plan, including no parking of contractor's vehicles on Maw Green Road**
- 50. Reserved Matters to make provision for any bungalows to be located adjacent to existing properties on Sydney Road**
- 51. Installation of Traffic lights at the bridge over Maw Green Road before occupation of 50th House**

In order to give proper effect to the Board's intentions and without changing the substance of the decision, authority is delegated to DMBCM, in consultation with the Chair of SPB, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.