

## **APPLICATION NO: 12/3948C**

**PROPOSAL:** Outline application for commercial development comprising of family pub/restaurant, hotel, café, office and light industrial commercial units and residential development up to 250 dwellings.

**ADDRESS:** Land bounded by Old Mill Road & M6 Northbound Slip Road, Sandbach

**APPLICANT:** Bovale Ltd

## **APPLICANTS SUBMISSION**

Comments have been received on behalf of the applicant making the following points in response to the Committee report:

- The site is a preferred Strategic Allocation in the emerging Local Plan and is included within the Council's 5 year housing land supply;
- The site is within the defined Settlement Zone and is a sustainable extension to Sandbach;
- The S106 contributions and planning gains need to be made clear: in addition to 20% affordable housing (50/50 split), a total sum of £595,144 towards education / off-site highway works (LPA to confirm) AND over £1,700,000 of expenditure to Junction 17 highway improvements;
- Highway Safety & Traffic Generation - the comment that we do not contribute £469,000 and that impacts are not mitigated is incorrect and could mislead Members: see above for contributions and gains.
- The existing queuing on the A534 northbound approach on High Street/The Hill signals is wholly down to the unsatisfactory fixed signal timings on the signals at that location, which an amendment to those timings would resolve. The results of the model (which is jointly owned by HA & CEC) shows that with optimisation of the signal timings which has been assumed in the model, overall, queues would reduce significantly. Although there is a minor negative effect on two arms of the Wheelock Roundabout, the overall effect on the network with our project in place is an improvement, NOT a deterioration, and therefore no mitigation is justified at these remote locations from the site.
- In order to improve pedestrian and cyclist movement between Capricorn and Congleton Road the following will be provided:
  - i) Toucan Crossing of Old Mill Road.
  - ii) The proposed footway on the south side of Old Mill Road across the footage of the residential development be upgraded to footway / cycleway.
  - iii) Pedestrian Refuge - if required as well as a Toucan
- The viability does not allow in build costs for HCA-compliant affordable dwellings (which is fine as we assume no HCA funding) nor for Code Level 3. We will build to Building Regulations. Proposed Condition 15 has also not been included and is based upon the abolished RSS policy, which has not applied to recent consents;

- Ecology - the report sets out Buffer Zone specification in different sections of the site BUT we have submitted with the outline evidence of appropriate 'stand-off' distances and our draft layout (for Reserved Matters) will be based upon that.
- Open Space - we assume the areas specified (4,000 sq.m total) include the existing trees within the site.
- Proposed planning conditions - any conditions need to allow a phased implementation to assist delivery.

## **KEY ISSUES**

The comments from the applicant regarding condition 15 relating to energy from decentralised and renewable or low-carbon energy sources are noted. It is accepted that both the Framework and the emerging local plan acknowledge that such provisions relating to renewable energy are subject to viability. Given the viability issues with the proposed development, this condition will need to be removed from the recommendation.

The specific details of the required education contributions remain outstanding from the original report and these will need to be provided as a verbal update at the meeting.

By way of further clarification / explanation the main emphasis on strategic site CS24 within the emerging local plan is the provision of an employment site with a small level of residential development which will help to enable the access and infrastructure for the site. A phasing condition has been recommended (condition 27) to provide a mechanism to ensure that the implementation of the employment uses and the roundabout are provided in a timely manner in relation to the residential development. The precise phasing is to be agreed, but the intention is to avoid the situation that only the residential aspects of the scheme are delivered.

Similarly, if for any reason the roundabout that is the subject of application 14/0043C is not provided, a mechanism needs to be in place to allow for the claw back and uplift of contributions given the significant contributions the applicants are making to the roundabout and the associated viability issues surrounding the application. This will form part of the s106 agreement and is listed under the heads of terms in the original report.

Finally, the development of this site will provide only part of the allocation for the strategic site as a whole in the emerging strategy. Provision will need to be made within the reserved matters application for the potential continuation of an access road at the south western edge of the site and a design solution for reaching land beyond the wildlife corridor. An additional condition is therefore recommended to ensure that this is addressed within the reserved matters submission.

## **CONCLUSIONS**

As in the original report a recommendation of approval is made.

**APPLICATION NO:** 13/3449C

**PROPOSAL:** Outline application for residential development (approximately 450 dwellings), retail unit (A1, A2, A3, A4 and/or A5) and supporting infrastructure.

**ADDRESS:** Glebe Farm, Booth Lane, Middlewich, CW10 0RP

**APPLICANT:** Bovale Ltd

### **Additional Information**

The Strategic Highways Manager has now confirmed that the 3<sup>rd</sup> requirement (no more than 200 dwellings are to be constructed prior to the completion of the MEB or other highway/sustainability measures) in the S106 Heads of Terms is no longer required and this will be removed from the Heads of Terms.

In terms of the playing pitch sum. This has now been confirmed as option 3 and the Heads of Terms will be updated to reflect this.

### **RECOMMENDATION**

**APPROVE** subject to completion of Section 106 Legal Agreement to secure the following:-

1. A contribution towards playing pitch improvements at Sutton Lane £220,000 (Sum to be paid prior to the commencement of development)
2. A contribution towards Middlewich Eastern Bypass of £4,780,000. If the MEB is not delivered the sum will be spent on the following highway/sustainability measures: Bus Service/Facility Improvements; Town Bridge – Signal Junction Improvements; Cycle Lanes -Towpath: Middlewich to Glebe Farm; Cycle Lanes -Carriageway Modification: Middlewich to Glebe Farm; and Cycle Lanes -Towpath: Glebe Farm to Elworth. The sum is to be submitted prior to the commencement of development.
3. A scheme for the provision of 10% affordable housing all to be affordable rent. The scheme shall include:
  - The numbers, type and location on the site of the affordable housing provision
  - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
  - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
  - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

**4. Provision of Public Open Space, a NEAP and LEAP to be maintained by a private management company**

**And the following conditions**

- 1. Standard Outline**
- 2. Submission of Reserved Matters**
- 3. Time limit for submission of reserved matters**
- 4. Approved Plans**
- 5. Hours of construction limited to 08:00 to 18:00 Monday to Friday, 09:00 – 14:00 Saturday and not at all on Sundays**
- 6. Pile driving limited to 08:30 to 17:30 Monday to Friday, 09:00 – 13:00 Saturday and not at all on Sundays**
- 7. Prior to the commencement of development a Phase I Contaminated Land Assessment shall be submitted to the LPA for approval in writing.**
- 8. Details of external lighting to be submitted and approved**
- 9. Dust control measures to be submitted and approved**
- 10. Prior to the development commencing, an Environmental Management Plan shall be submitted and agreed by the planning authority.**
- 11. A scheme for the acoustic enclosure of any fans, compressors or other equipment for the proposed retail store**
- 12. A detailed scheme of glazing, ventilation mitigation measures and acoustic screening fences, should therefore be prepared and submitted at the Reserved Matters application stage**
- 13. Travel Plan provision**
- 14. Electric vehicle Infrastructure**
- 15. The submission of a ground dissolution/brine extraction related risk assessment and proposals regarding suitable foundations designed to overcome the potential effects of brine pumping related subsidence.**
- 16. A scheme to limit the surface water run-off from the site**
- 17. A scheme to manage the risk of flooding from overland flow**
- 18. The provision of a buffer to the water course**
- 19. Provision of bird and bat boxes**
- 20. Works should commence outside the bird breeding season**
- 21. Access point to Booth Lane to be provided in accordance with the approved details prior to first occupation**
- 22. No development shall take place within the area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.**
- 23. Reserved matters application to include details of existing and proposed levels**
- 24. Tree protection**
- 25. Tree retention**
- 26. Arboricultural Method Statement to be submitted at the Reserved Matters stage**
- 27. If the Reserved Matters application results in the loss of any ponds replacements should be provided.**

**Informative:**

**1. The applicant is advised that they have a duty to adhere to the regulations of Part IIA of the Environmental Protection Act 1990, the National Planning Policy Framework 2012 and the current Building Control Regulations with regards to contaminated land. If any unforeseen contamination is encountered during the development, the Local Planning Authority (LPA) should be informed immediately. Any investigation / remedial / protective works carried out in relation to this application shall be carried out to agreed timescales and approved by the LPA in writing. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.**

**In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Planning and Place Shaping Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.**

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

**APPLICATION NO: 13/2746C**

**PROPOSAL:** Erection of up to 180 dwellings, public open space, green infrastructure and associated works  
**ADDRESS:** Land between Black Firs Lane, Chelford Road & Holmes Chapel Road, Somerford, Congleton,  
**APPLICANT:** Richborough Estates Partnership LLP

**Additional representations**

An Online Petition Against Housing Development on the Somerford Triangle comprising 121 digital signatures was received in December 2013 but in error was not referred to in the Officers Committee Report. This is additional to the written petition opposing the development

**Site Description**

A local resident objects to the reference of the site as marking the western edge of the Congleton Settlement. The resident considers this misrepresents the urban area of Congleton against the rural area of Somerford.

**RECOMMENDATION**

No change to recommendation.

**APPLICATION NO:** 13/4121C

**PROPOSAL:** Full planning permission for the demolition of all existing buildings and the construction of a new retail foodstore; parking and circulation spaces; formation of new pedestrian and vehicle accesses; landscaping and associated works (re-submission of 12/0800C)

**ADDRESS:** Former Twyfords Bathrooms Ltd, Lawton Road, Alsager, Stoke-on-Trent, ST7 2DF

**APPLICANT:** Sainsburys Supermakets Ltd & Lagan (Alsager)

### **Additional Representations**

An additional 8 letters of support have been received from local residents.

An updated letter of objection has been received from the Co-op which includes the following summary and conclusion:

- There is no impediment to the site being considered available for the purposes of applying the sequential test. In this case, the NPPF then requires consideration of the suitability of the site. NPPG provides further detail upon how sites can be considered suitable and addresses the degree of flexibility to be employed in consideration of the format and scale of development. Turleys set out their detailed methodology in response to these requirements.
- The recently completed Coop store and the wider town centre site within which the store is located can be considered a suitable site to accommodate a scheme within the parameters of Turleys chosen assessment. The scheme incorporates all modern requirements and specifications required by retailers and should be considered as a sequentially preferable location to the application proposals.
- Principally, the onus is upon the applicant to fully consider all sequentially preferable sites. If the site were not fully considered, NPPF requires (to which NPPG is now aligned) that planning permission be refused due to the absence of a thorough assessment.

### **RECOMMENDATION**

The Town and Country Planning (Consultation) (England) Direction 2009 requires that this application is referred to the Secretary of State with a recommendation to approve with conditions and subject to the completion of a S106 Agreement (the conditions and S106 Heads of Terms are unchanged from the original report).



**APPLICATION NO: 13/4725N**

**PROPOSAL:** Reserved matters application pursuant to outline planning permission 11/1643N for the construction of 215 dwellings, associated on site highways infrastructure, car parking and pedestrian/cycle routes, formal and informal open space provision and associated works

**ADDRESS:** LAND AT COPPENHALL EAST, STONELEY ROAD, CREWE

**APPLICANT:** Taylor Wimpey

**Officer Comments**

**Applicant Comments upon Committee Report**

The Brine Compensation Board states that the site is just outside the consultation area. However, the natural dissolution risk from the presence of rock salt below the site is still a potential stability issue which needs to be addressed by the applicant.

Taylor Wimpey UK Limited submitted a response letter on 8th January 2014 (enclosed) to deal with the comments raised. No further assessment work on land stability is necessary and we note that the Phase 1 Site is the furthest development phase from the King Street Fault. We consider that the information submitted as part of the Outline Planning Application [LPA Ref: 11/1643N] and within the letter of 8th January, is sufficient and that the suggested brine condition is unnecessary given that they have proven that the site has no instability issues.

The Building Control Officer has confirmed that this would also be a matter for the Building Regulations regime. In these circumstances it is accepted that no planning condition is necessary.

The applicant has advised that they are having difficulty sourced the bricks specified in the application. To accommodate this change it will be necessary to amend condition 1

**RECOMMENDATION**

Recommendation updated

Condition 1 - Materials to be submitted to and approved by the LPA  
Condition 3 - Brine information - delete

**APPLICATION NO:** 13/5290W

**PROPOSAL:** Periodic Review of mineral permission 5/97/1502P under the Environment Act 1995

**ADDRESS:** Land at LEE HILLS, CROKER LANE, SUTTON

**APPLICANT:** R Rathbone

## **OFFICER APPRAISAL**

The NPPG outlines a range of matters to consider in respect to the imposition of mineral planning conditions. This includes:

- type of mineral;
- nature and extent of existing working;
- the location of the site;
- the length of time that minerals extraction has taken place at the site;
- land quality and proposed after-use; and
- the availability of suitable restoration materials.

Policy 12 of MLP also identifies aspects of mineral development that should be controlled by planning condition. Whilst this is largely applicable to new applications for mineral planning permission rather than ROMP reviews, it nonetheless outlines key considerations which include:

- timescales of operations;
- noise, dust, illumination and vibration levels;
- house of working and maintenance;
- satisfactory access, road safety and vehicular management;
- pollution control measures;
- impact of built development;
- satisfactory disposal of quarry waste;
- phased operation and restoration commensurate with the rate of extraction;
- visual impacts;
- stability and support of surrounding land;
- protection of public rights of way;
- satisfactory reclamation of the land;
- good soil handling practice.

The conditions attached to the extant planning permission largely cover these considerations; albeit some in more depth than others. The conditions cover the broad approach of the NPPF (and the accompanying technical guidance document/NPPG), the MLP and the 'Good Practice Guide for Mineral Planning Conditions' produced by Planning Officers Society for Wales. They

also provide some degree of control over the general quarry working and site restoration.

Whilst there is no statutory requirement to undertake consultation and publicise requests for postponement of the review date, the Authority has provided key consultees and neighbouring properties with the opportunity to comment on proposed postponement of the periodic review. No representations have been received from local residents and there are no recent records of any complaints being received in connection with this quarry; indicating that the existing planning conditions are operating effectively to ensure no detrimental impact on residential amenity arises from the quarrying activities. In addition the statutory monitoring reports undertaken by the Monitoring and Enforcement Officer identify that the site has been operated in compliance with the planning conditions.

In such situations it is noted that the NPPG advises that a periodic ROMP review is not normally required. However the legislation still provides the MPA with the option of undertaking a review where the existing conditions are not considered satisfactory. It is also noted that the site has not been intensively worked for a long period of time, and the permission allows the site to be worked until 2042 at a much greater rate than is currently being experienced.

Planning legislation requires MPA to also have due regard to all the information about the likely effects of a development on the environment in the decision making process. The agent has provided the minimum information necessary to meet the statutory requirements for the ROMP postponement request; namely:

- a copy of the existing conditions;
- the reasons why the mineral operator considers the conditions to be satisfactory; and
- the date which they propose for the new review

Despite this, consultees remain concerned over the ability of the conditions to control the impacts of quarrying on the environment, in the absence of any up to date and comprehensive information on the current environmental conditions of the site and impacts of the development over the next 15 years. In particular these relate to the following matters.

#### Nature Conservation Impacts

The NPPF, MLP Policy 9 and Policy SE3 of the Local Plan Strategy – Submission Version (LPS) requires there to be an evaluation of the likely effects of any development on nature conservation assets; and where adverse effects are identified, provisions for appropriate mitigation to be secured.

The original planning permission for mineral extraction granted in 1951 (Ref: 5/5/842) contained no provisions for protecting nature conservation assets. Equally the extant consent does not include planning conditions to address

the impacts of continued quarrying activities until 2042 on protected species and their habitats; nor does it provide any mechanism to secure mitigation where adverse effects may arise.

The quarry has significant mineral reserves remaining and large parts of the site remain unworked. The current planning conditions require that only those parcels of land which are about to be worked are stripped, with the remainder of land in future phases left undisturbed. Equally there are long periods of time where there is no activity on site due to the low demand for this mineral. In view of this, and given the location of the site in a rural landscape surrounded by open land and vegetation which could be of some ecological value, there is potential for a number of protected and priority species to be present on the site or to become re-established on site in periods of inactivity which could be adversely affected by the continued quarrying activities.

As such, in order to ensure that the full ecological impacts of the quarry activities have been appropriately assessed and mitigated, the Nature Conservation Officer considers that the following information is required:

- Desk based study including a search of biological records held by the Local Biological Record Centre;
- Extended Phase 1 Habitat Survey to evaluate all habitats within 50m of the site and the access routes, for the presence of, or suitability for any Biodiversity Action Plan species/habitats, and any rare or protected plant or animal species; and should these be found, specific surveys should be carried out;
- Great Crested Newt survey/assessment of any ponds within 250m;
- An assessment of the potential impacts of the proposed development in accordance with the IEEM guidelines (2006);
- Mitigation/compensation proposals for any adverse impacts identified during the above assessment.

Whilst the applicant has stated that environmental information was provided at the time of the original review to address the impacts of quarrying on nature conservation assets, this information is not available in the consideration of this application and as such the MPA is unable to ascertain if this issue has been properly considered. Furthermore, such environmental information would now be in excess of 15 years old and therefore would not present an acceptable baseline to assess the ecological value of the site and the implications of continued quarrying for a 15 year period on nature conservation assets.

In view of this and in the absence of any conditions concerning nature conservation assets; it is considered that the planning conditions as currently drafted do not provide adequate protection for features of nature conservation interest on the site, nor do they provide for mitigation of any adverse effects arising from the quarrying through each phase of the development. This does not accord with the general approach of national planning policy, MLP and LPS.

### Impact on water resources

The extant conditions require the submission of schemes detailing the methods of working; drainage arrangements for the site and final depth of extraction. The applicant has stated that this information has historically been provided to the Environment Agency although this was not supplied to the Authority to support the request for a postponement of the periodic review of the consent and is not available in the consideration of this submission.

The Environment Agency (EA) have raised concerns over the lack of information regarding the extent of the proposed mineral extraction including final proposed depths, volume of material to be extracted and spoil remaining on site. They identify evidence from aerial photographs of standing water in lagoons in at least two places within the excavations which suggests that the development has already encountered groundwater. Concern is also raised over the lack of evidence to demonstrate that a hydrogeological Impact Assessment has been undertaken; or that hydrogeological mitigation measures have been established, especially if there is an unconstrained depth of working that could impact upon local water dependencies. They also note the lack of clarity regarding operational water management on site and how the effluent/drainage is disposed of. Whilst the applicant maintains that this information has historically been supplied to the EA, this is not available to inform the consideration of this submission, and the EA remain concerned that these issues have not been adequately addressed.

Equally, given the timescales when this information was supplied (provided to discharge planning conditions imposed 15 years ago) it is assumed that the age of this data would not fully reflect the current site and hydrological conditions given that mineral extraction has continued in the intervening period which would have modified the site's topography and associated hydrogeology. In view of the lack of environmental information on the current condition of the site and impacts of the quarrying in forthcoming years, it is not considered that the conditions on the extant consent are sufficient to ensure the quarrying activities over the next 15 years would not present unacceptable impact on ground and surface water quality, supply and flow and do not ensure that sufficient mitigation can be secured against any adverse impact generated in each phase of development as required by NPPF, MLP Policy 25 and Policy SE13 of LPS.

### Landscape impacts and restoration of the site

The conditions on the extant consent require the submission of a scheme outlining the method of working and final restoration contours, final depth of extraction, and phasing of restoration. This was necessary as insufficient detail was provided in the original ROMP submission in 1997 to ensure that the restoration of the site to agriculture could be achieved and that an appropriate landform would be created relative to the surrounding landscape given the resultant landform that would be created by quarrying activities on the site.

None of this information has been provided with this submission, nor is it available to inform the determination of this case, although the applicant states that this has historically been provided. The Landscape Officer considers that without such information, it is not apparent how the site could be restored to the final contours; and whether a satisfactory restoration scheme can be achieved at the end of the extraction period. Whilst it is noted that there are conditions in place to secure the submission of details of the final site restoration and how this would be achieved; it is not apparent from the information available that this issue has been fully addressed to demonstrate that the site can be restored to an acceptable level; and it is unclear whether additional conditions are required to address any gaps in provision of information, or matters yet to be resolved.

As such the MPA is unable to state with any degree of certainty based on the information available, whether the conditions will ensure a satisfactory restoration is achieved taking into account the availability of material and result landform created at the end of quarrying activities as required by NPPF, MLP Policy 41, Policy SE4 and SE10 of LPS.

### **Other matters**

The Environmental Impact Assessment Regulations 2011 require that planning authorities, before deciding whether to grant planning permission for new development which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects and takes this into account in the decision making process.

The 2011 EIA Regulations identifies those projects where an Environmental Impact Assessment (EIA) is mandatory (defined as 'Schedule 1 development'). This includes all quarries where the surface area of the site exceeds 25 hectares. In this case, the site covers an area of 32 hectares; and at the time of the original ROMP review, the active area for extraction was identified as 26 hectares. However, this is not a new application for planning permission but a review of the existing planning conditions.

When the initial ROMP review for this site was undertaken in 1999, the legislative guidance at the time considered that, because the reviews did not grant permission for mineral extraction but merely introduced up to date operating conditions, there was no need to apply the provisions of the EIA Directive because the consent which allows a quarry to operate is the mineral permission to which it is subject, the imposition of new operating conditions was not considered to be a 'development consent' within the meaning of the Directive. As such, despite falling within the definition of Schedule 1 of the EIA Regulations, the ROMP review was not screened for the need for an EIA and the provisions of the EIA Directive were not applied.

However, a High Court Judgement made shortly after this time determined that the imposition of new conditions by the mineral planning authority was a 'development consent' under the EIA Directive, and thus it was established that the need for an EIA also applied to the ROMP review process (and

revised EIA Regulations were issued in 2000 as a result). The resultant guidance from DCLG (Environmental Impact Assessment and Reviews of Mineral Planning Permissions) makes it clear that new conditions may not be determined for the remaining permitted mineral development without the MPA having considered all the information about the likely effects of the development on the environment. It also identifies that in the case of periodic reviews, the need for an EIA should similarly be considered.

Due to the timescales of the original review of conditions on this site in relation to this change in legislation, the need for an EIA was not considered in the course of the original romp review. Should this application to postpone the periodic review be refused; the subsequent review of mineral conditions that would be undertaken would fall to be considered under the EIA Regulations.

## **CONCLUSION**

The operation of a mineral site can significantly change its impact over its lifetime and standards of society can also change; as such it is important to consider whether there is a need to review the planning conditions to ensure modern standards are met. The change in legislation brought about by the Growth and Infrastructure Act 2013 removed the automatic requirement for the periodic review of mineral permissions; but nonetheless provides MPAs with the power to undertake such reviews where the existing conditions are not deemed to be satisfactory.

The mineral operator has applied to postpone the periodic review of the mineral permission for a further 15 year period as they consider the existing conditions to be acceptable to control the impacts of development. Whilst it is accepted that there have been no recorded complaints and the monitoring officers reports do not indicate any problems with current activities; it is also noted that the site has not been worked intensively for some time but quarrying activities can be heavily intensified at any point in the future until 2042 when the permission expires should a change in economic circumstances arise.

Planning policy is clear that authorities should have due regard to all the information about the likely effects of a development on the environment in the decision making process. It is the applicant's view that sufficient information has historically been provided through the initial ROMP review and in discharging conditions on the consent thereafter. However this information is not available to the MPA at the current time, and such information is unlikely to present an acceptable basis upon which to establish current site conditions given that the data was prepared to support an application 15 years ago; and the site has continued quarrying in the intervening period which has altered the environmental conditions of the site during this time.

It is the view of the MPA that a postponement of the periodic review of mineral permissions should not be determined without the MPA having considered all

the information about the likely effects of the development on the environment and take this into account in the decision making process. For the reasons outlined above it is considered that insufficient information is available to demonstrate that the conditions which were imposed 15 years ago remain acceptable. On this basis it is considered that the request for the postponement of the periodic review of conditions for a further 15 year period should be refused; and that the full review of conditions should be progressed.

### **Recommendation**

That the Interim Planning & Place Shaping Manager be authorised to:

- Issue a letter of refusal for the postponement request detailed above and seek a full periodic review.
- Engage Counsel in the event that any claim for Judicial Review is pursued.



**Application No:** 13/2069N

**Location:** LAND TO THE EAST OF CREWE ROAD, SHAVINGTON  
CUM GRETTY

**Proposal:** Outline planning application for the construction of up to 275 dwellings, including access, landscaping, recreation and amenity open space, associated infrastructure, the demolition of 28 Crewe Road and demolition of the single-storey extension to 56 Crewe Road. Permission is sought for means of access. Layout, scale, appearance and landscaping are reserved for subsequent approval.

**Applicant:** TAYLOR WIMPEY UK LTD and others

## **REPRESENTATIONS**

A detailed objection has been received from Councillor Marren making the following points:

### **Relevant Planning History**

#### ***5<sup>th</sup> February 1981 – Application 7/7556***

Crewe and Nantwich Borough Council declined planning permission on the site on 6 grounds; including:

- No.3 “the development proposal would be an undesirable and unnecessary intrusion of residential development into the generally open agricultural land...”
- No.4 “the land is of high agricultural value”
- No.5 “the development would exacerbate the risk of flooding”
- No.6 “Highway grounds”
- The planning inspector dismissed the appeal.

#### ***Local Plan Inquiry in 1989***

An objection to the Crewe Local Plan, adopted in 1988, requested that 3ha of the site be included in the settlement boundary and allocated for housing. The inspector at the public inquiry in 1989 concluded that no change to the plan was required.

#### ***Public Local Plan Inquiry 1996***

This Inquiry was into the Crewe and Nantwich Local Plan, which was adopted in 1997 and related to development up until 2001. The main issue at the 1996 Local Plan Inquiry was whether the Shavington East site was part of open countryside or whether it was part of the village to be included in the settlement boundary. The Local Planning Authority “*recognised the unique*

*opportunity to maintain a window into open countryside from the centre of the village”.*

The inspector concluded that “there are undoubted visual benefits in retaining the view of open countryside at this point along Crewe Road”. He recommended No Change be made to the plan.

### ***Public Local Plan Inquiry 2003***

This Inquiry was into the Crewe and Nantwich replacement Local Plan to 2011 which was adopted in February 2005. The main issues to be addressed were whether the site was suitable for housing; whether there was a need for additional houses in Shavington; and would the development be of an appropriate scale and character for Shavington.

The inspector dismissed all objections that the East Shavington site should be allocated for development and decided that no modification be made to the replacement Plan. His reasoning being that “sequentially preferable sites should be allocated first; that a major part of the site was Grade 2 farmland; a lack of the defensible boundary; and also that he agreed with the previous Inspector that the site offers a window into open countryside, which is important to the character of the village.”

- The emerging strategy indicates that this is a strategic site that will be phased to start to deliver housing in the period post 2020 in order to ensure the delivery of the strategic employment sites at Basford East and West, which includes residential development.
- Cheshire East is able to demonstrate the availability of a 5.87 years supply of housing land using the ‘Sedgefield’ methodology with a 5% ‘buffer’ and 5.14 years supply with a 20% ‘buffer’.
- Shavington East is not relied upon in the calculation to demonstrate the 5.87 years of supply as such this application is premature.
- Previous appealed decisions have given credence to prematurity arguments where authorities can demonstrate 5 year supply of land.
- This being the case, the saved policies of the Crewe and Nantwich Local Plan 2011 are relevant.
- The proposal is contrary to policy NE.2 and RES.5 there is a presumption against new residential development.
- As the LPA can demonstrate a 5 year supply, these policies are up to date and the presumption in favour of the development does not apply.
- Policy NE.12 of the local plan and the NPPF require that development should utilise areas of poorer quality land (grades 3b, 4 and 5) in preference to higher quality land.
- The last time this site was considered for development by a planning inspector he accepted that *“a major part of the application site is grade*

*2 agriculture land, (at least 50%), with the balance being largely grade 3b” and it was also his view, and one that I agree with, and hope the Council will agree with, “that the best and most versatile agricultural land should not be used for allocations”.*

- Part of the site, adjacent to Swill Brook, is actually defined as flood plain, on the proposals Map of the Borough of Crewe and Nantwich Replacement Local Plan 2011. Policies NE.19 (Second draft) and BE.4 are relevant.
- There has been plenty of evidence already submitted of drainage difficulties in the area close to Swill Brook with houses on The Orchards being particularly affected. The construction of 275 properties and associated infrastructure on this site can only aggravate this situation.
- In the light of current weather related events, members should dismiss the Environment Agency assurances that a civil engineering solution can be put in place.
- Shavington village has accepted more than its fair share of development with the ‘Shavington triangle’ and ‘Rope Lane’.
- Basford East and West Have Cheshire East’s Council’s support and will provide almost 1600 extra homes to draw upon the village infrastructure.
- If permission of the application were granted, further development is likely as the first defenceable boundary is Back Lane. Hough and Basford be merged into Shavington.
- The actual site is bounded to the west by properties which front Crewe Road, apart from a break in the centre of the village, where the site extends to the pavement of Crewe Road. F
- This gives views open views over farmland to Mow Cop, which is 15km away.
- Previous inspectors have agreed that the Shavington East site offers a window into the heart of the countryside which is important to the character of the village and this opinion contributed to the upholding of previous “refusal decisions” by planning inspectors both in 2003 and 1996.
- Paragraph 17 of the NPPF details the core principles of sustainable development. It is stated that planning should recognise “*the intrinsic character and beauty of the countryside*”. This application site projects into the open countryside and would be a significant intrusion into a previously underdeveloped area.
- At one time, when the Shavington Primary intake was a two form entry and its pupil capacity was 420, this might have been accommodated. However, it is now, what is regarded as the ideal size for a primary school nationally, that being a single form entry with 30 children per

class. The pupil admission number is 30 and the school is full. This is evidenced by the fact that 86 children applied for admission in September 2012 but only 30 were accepted. Of the 50 children that this development would generate, they will of course be of varying age and the school will be unable to plan for them or even accept them all, and this might well aggravate travel to school costs. Of course, the applicants will base their planning submission on just Shavington East, but Cheshire East and all the local schools will need to consider all of the other very close applications currently underway (Shavington Triangle, Rope Lane, Basford East and West).

- A S106 formula levy on this development will not cover the stepped costs of dealing with these additional children; nor would it be acceptable that we introduce portacabin teaching onto the site.
- The ecological assessment carried out by TEP should be treated with caution as it is not independent. An independent survey is one which is commissioned by the Planning authority, rather than the applicants, and the Council should carry out its own survey.
- There is disparity of the TEP assessment findings with the observations of those who have greater familiarity with the site, namely those living near to the application site.
- The TEP assessment by the dismissive description attributed to the site in the assessment i.e. para 2.2-“ *In brief, the site comprises grassland, arable fields, hedgerows, scattered trees, woodland, scrub, ditches and a stream.*” This can be contrasted with the demised CNBC Planning authority description of site submitted to the Planning Inspectorate in 2004; “*The site is mainly comprised of open pastureland, with mature trees and hedgerows. Most of the site is flat, although in the northern part of the site, the land slopes down to Swill Brook and rises up towards Weston Lane.*”
- In previous proof of evidence to the Planning Inspector (2003), Cheshire County Council, as the then Highway Authority, “*indicated that suitable access and visibility standards necessary to support a housing proposal on this site could not be met. The site fronts the busy B5071, which links Crewe with the A500. Adjacent to the site is the junction with Main Road, which at peak times carries heavy traffic associated with the Primary School. The major concern however was the substandard visibility from the site onto Crewe Road and the forward stopping site visibility for existing road users. The Highway Authority concluded that the release of the site for housing would be potentially dangerous and detrimental to the free flow of traffic on Crewe Road and not in the best interests of highway safety.*”
- Traffic use of Crewe Road has increased since then and with the development approvals at the triangle and Rope Lane, and with the

probable approvals of Basford East and West, traffic use will worsen. It would be illogical for the Highway Authority to now change its view

- The recommendation of the Strategic Highways Manager was for refusal based upon the cumulative traffic impact affecting the Crewe Road/Gresty Road/ South Street (referred to as the corridor) and the A534 Nantwich Road. This is a result of the traffic predicted from other sites with planning consents and not yet built and the severe harm that would be caused by permitting any further development, including this application
- This severe harm related to the:
  - Levels of queues and delays on the corridor.
  - Increased traffic seeking alternative routes through residential areas.
  - Worsening traffic conditions at a major pinch point on the Crewe road network
  - affecting access to Crewe Station, local bus networks, the town centre and its major centres of employment and its associated consequential affects.

#### **OFFICER COMMENT**

For clarification to ensure compliance with the provisions of the Local Plan Strategy Submission Version, the phasing condition should be reference to no development until “post 2020”.

#### **RECOMMENDATION**

**As per main report but include reference to “post 2020”.**