

ITEM NO:	<u>Location:</u>	Land Adjacent To Elm Tree Farm, Hambridge Way, Pirton
5	<u>Applicant:</u>	CALA Homes
	<u>Proposal:</u>	Construction Management Plan & Traffic Management Plan - Condition 6 - Holwell only route by CALA dated 4/8/17 Construction Route Plan - Arrival and Departure via Holwell by Waterman Infrastructure & Environment Ltd dated 4 August 2017 (as Discharge of Condition of Planning Permission 15/01618/1 granted 25/05/2016)
	<u>Ref. No:</u>	17/02023/ 1DOC
	<u>Officer:</u>	Simon Ellis

Date of expiry of statutory period: 02 October 2017

Reason for Delay

N/A. Statutory expiry date is 2 October 2017.

Reason for Referral to Committee

Under the Council's constitution and scheme of delegation the Development and Conservation Manager has full delegated powers to determine all applications for the discharge of details submitted pursuant to conditions of any planning permission. The Development and Conservation Manager does however have discretion to refer any decision to the Planning Control Committee where there has been significant public interest. Proposals relating to construction management and construction traffic routes associated with the proposed residential development on land at Elm Tree Farm, Pirton, is clearly an example of a proposal that has generated significant public interest, as is set out in the relevant sections of this report below. On that basis I have decided to refer this application to be determined by the Planning Control Committee rather than under powers delegated to me.

On a related point there is no requirement under relevant legislation and regulations to consult local residents on any application to seek discharge of a pre-commencement condition of planning permission.

However, given the level of public interest in this proposal officers decided to undertake a wide public consultation exercise enabling local residents to have three weeks to comment on this application as a minimum. This formal consultation period ends on 19 September 2017 shortly after this report has been finalised.

1.0 Relevant History and Procedural Matters

- 1.1 At the meeting of the Planning Control Committee held on 17 December 2015 Members resolved to grant outline planning permission on this site for the following development proposal (ref. 15/01618/1):

Outline application (all matters reserved) for residential development of up to 82 dwellings with associated infrastructure, public open space and planting (amended description).

- 1.2 Following the completion of the associated S106 Obligation outline planning permission was granted on 27 May 2016.

Condition no. 2 of this outline planning permission reads as follows:

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission, and the development hereby permitted shall be begun before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 1.3 The timing of this decision means that any submission of reserved matters needed to be submitted before 27 May 2019 and development must commence within 2 years following the approval of the last of the reserved matters.

Condition no. 6 of this outline planning permission reads as follows:

Prior to the commencement of the development full details of a Construction Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Construction Management Plan shall contain the program of works on site, area of construction vehicle parking, storage and delivery of materials within the development site, construction vehicles wheel washing facilities, and details construction vehicle routing to and from the site.

Reason: In the interests of maintaining highway efficiency and safety.

- 1.4 At the meeting of the Planning Control Committee held on 25 May 2017 Members resolved to grant reserved matters approval for the following development proposal (ref. 16/02256/1):

Reserved matters application for approval of access, appearance, landscaping, layout and scale to serve a residential development of 78 dwellings (31 affordable and 47 private), pursuant to outline planning application 15/01618/1 granted 27.5.16 (as amended).

- 1.5 Following the Committee decision the reserved matters approval decision notice was issued on 30 May 2017. Referring back to the implementation time table outlined above (condition no. 2 of outline planning permission no. 15/01618/1) in order to keep this planning permission extant work on this development must now commence before 30 May 2019.

- 1.6 Rather than submit separate details of a Construction Management Plan under a separate application to discharge the requirements of condition no. 6 of outline planning permission no. 15/01618/1, the applicant submitted the Construction Management Plan (CMP) as part of the reserved matters approval application (ref. 16/02256/1, received as a valid application on 3 October 2016). This meant that as well consulting local residents on the reserved matters application the Council also consulted local residents on the CMP.

- 1.7 During the determination process of the reserved matters application ref. 16/02256/1 officers advised the applicant that to discharge the requirements of condition no. 6 of outline planning permission no. 15/01618/1 required a separate application to the reserved matters application. When considering applications for the approval of reserved matters, consideration of construction management arrangements are not material and it was therefore necessary to separate the two issues.
- 1.8 Following this advice the applicant then submitted a separate application to seek discharge of the requirements of condition no. 6 of outline planning permission no. 15/01618/1. This separate application was received on 9 February 2017 and was given the reference number 17/00335/1DOC. As is explained above there is no requirement under relevant legislation and regulations to consult local residents on applications which seek to discharge the requirements of conditions of planning permission. However, given that local residents had already inadvertently been consulted on the CMP by virtue of being consulted on the original reserved matters application (indeed many comments had already been received before the separate application was submitted), officers felt it was now clearly in the public interest to consult widely on the separate application to seek discharge of the requirements of condition no. 6 of outline planning permission no. 15/01618/1; and indeed to refer a decision on the application to the Planning Control Committee in the public interest at the discretion of the Development and Conservation Manager. The application was subsequently reported to the meeting of the Planning Control Committee held on 25 May 2017.
- 1.9 At that meeting Members resolved to defer a decision on application ref. 17/0335/1DOC:

Details reserved by Condition 6 (Construction Management Plan) of planning permission reference no. 15/01618/1 granted on 27 May 2016.

- 1.10 The associated officer report to Committee and minutes of this meeting are attached as **appendix 1 and 2** to this report.
- 1.11 To summarise the application contained 4 possible construction routes for Members to consider as follows:
1. Arrival and Departure via Holwell
 2. Arrival and Departure via Pirton
 3. Arrival via Pirton, Departure via Holwell
 4. Arrival via Holwell, Departure via Pirton
- 1.12 The reasons for deferral are complex and set out in the minutes attached as appendix 2. Essentially Members did not feel at the meeting that they could confidently grant approval for any of these options. They requested officers to liaise with the applicant and Hertfordshire County Council (Highways) to seek more clarification on highway safety issues relating to the CMP. Members also requested that consideration be given to other possible options, including the potential for a completely new road to access the site across open countryside, potentially from the A600 to the site to avoid conflict between construction traffic and other vehicles on the public highway.
- 1.13 Following the meeting officers, the applicant and Hertfordshire County Council (Highways) held discussions to attempt to address the concerns expressed by Members at the meeting and following these discussions a revised proposal was submitted under the same application proposing a construction traffic one-way through route entering Pirton from the south and exiting the site via Holwell to the A600. The idea behind this proposal was to spread the traffic across the two villages and by making the route one-way for all vehicles seeking to avoid conflict with other construction traffic on the public highway.

- 1.14 Another consultation exercise was undertaken in July 2017 and following formal advice from Hertfordshire County Council (Highways), the Hertfordshire and Middlesex Wildlife Trust and Hertfordshire Ecology officers sought further information from the applicant before being prepared to report this application back to the Planning Control Committee. The intention being to re-notify local residents again following the submission of the information requested.
- 1.15 This information was not forthcoming and on 10 August 2017 the applicant submitted a deemed discharge application to seek a decision on the application within 2 weeks (i.e. by 24 August 2017) or a deemed consent would follow.
- 1.16 **What is a deemed discharge consent application?**
- Measures contained within the 2015 Infrastructure Act sought to speed up the process of discharging pre-commencement planning conditions with a view to improving efficiency of local planning authorities in decision making and to avoid unnecessary delays to development proposals. The Act enabled the Secretary of State to instigate a deemed discharge system which came into effect under the Town and Country Planning (General Permitted Development) Order 2015.
- 1.17 Article 27 of this order requires local planning authorities to determine all applications for the discharge of conditions within 8 weeks from receipt of such applications or within any agreed extension to this period between the applicant the local planning authority.
- 1.18 Article 28 of the order allows an applicant (for certain conditions) to apply for a deemed discharge application no earlier than 6 weeks from the date of submission.
- 1.19 Article 29 of the order gives the local planning authority 14 days within which to make a decision on the application (i.e. to either approve the details and discharge the requirements of the condition or refuse the details with clear reasons) within the 14 day period. Failure to make a decision within that period results in a deemed discharge which is effectively a default approval of the application and the applicant can rely on this non decision an effective discharge of the condition.
- 1.20 Whilst there was a scheduled meeting of the Planning Control Committee on 17 August 2017, following receipt of the deemed discharge application on 10 August there was not sufficient time to prepare a report for that meeting in order to seek Members decision on the whether or not to approve application ref. 17/00335/1DOC and discharge or not the requirements of condition no. 6 of planning permission no. 15/01618/1.
- 1.21 Officers advised the applicant that a decision to approve (or to allow a deemed discharge) of this application would not be made under delegated powers and it therefore needed to be referred to the Planning Control Committee for a decision. Officers also advised that it was not possible to organise a special meeting of the Planning Control Committee at such short notice and following this advice the applicant decided to withdraw application no. 17/00335/1DOC on 22 August 2017, two days before the deemed discharge deadline imposed on the local planning authority.
- 1.22 Members must be advised that the applicant has every right to apply for a deemed discharge application for these decisions under the legislation. The applicant clearly wants the Council to agree a CMP without delay so they can implement the planning permission.

- 1.23 The right to submit a deemed discharge application (giving the local planning authority 14 days to reach a decision) applies to this current application also (the subject of this report). The 6 weeks minimum period to submit a deemed discharge application runs from 18 September 2017 (after the completion of this report) and if such an application is made the Planning Control Committee will need to decide whether to grant the approval of details or refuse the application with reasons. If a deemed discharge application is submitted on the earliest date (18 September 2017) the local planning authority has until 2 October 2017 to reach a decision or a deemed discharge consent is effective from that date.
- 1.24 Members must also note that the right to submit a deemed discharge application remains from the minimum 6 week period (i.e. in this case 18 September 2017) right up until such time as the application is determined. Following such an application the local planning authority must make a decision within 2 weeks following the deemed discharge application.
- 1.25 As can be seen from the timing of this application (submitted on 7 August 2017) it was necessary for officers to arrange a special meeting of the Planning Control Committee on 28 September 2017 to avoid a situation where the application could not be reported to the Committee in time following any potential deemed discharge application.
- 1.26 For the avoidance of doubt and to inform Members and local residents I must clarify that a decision to defer consideration of an application is not a decision to approve or refuse that application, it is nothing more than a deferral of a formal decision of the application. The decision of the Planning Control Committee at the meeting held on 25 May 2017 in relation to the previous application (17/00335/1DOC) was a not a decision on that application it was a decision to defer a decision. Moreover, the applicant is not legally obliged to follow up on all the reasons why the Committee deferred a decision. The applicant is allowed to seek a Committee decision on any proposal it puts forward. The applicant has a right of an appeal to the Planning Inspectorate (PINs) against any decision to refuse the details.
- 1.27 My role is to provide Members with my professional opinion as to whether I consider Members should approve or refuse the proposals that have been put forward. It is not my role to insist that the applicant follow up all the comments that were made by Members. It is however for the Committee to determine the applications and as can be seen above, with the risk of deemed discharge, it is necessary in this case for the Committee to make a formal decision and not defer the application for future consideration.

2.0 Policies

- 2.1 **North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies):**
No policies relevant to applications seeking discharge of conditions relating to construction management.
- 2.2 **National Planning Policy Framework (NPPF):**
Section 4 - Promoting Sustainable Transport
Section 11 - Conserving and Enhancing the Natural Environment (paragraph 123)
Paragraphs 203 - 206 - Planning Conditions and Obligations
- 2.3 **National Planning Policy Guidance (NPPG):**
Use of Planning Conditions
- 2.4 **North Hertfordshire District Submission Local Plan (2011-2031):**
Policy T1 - Assessment of Transport Matters

3.0 Representations

3.1 Hertfordshire County Council (Highways):

See full comments attached as **appendix 3**

Recommend that the condition is discharged subject to various amendments and clarification and only subject to the completion of the necessary S278 Agreement to secure the proposed passing places and associated safety audits and highway authority licences.

3.2 Environmental Health (Noise):

Nothing Received at the time of writing any comments to be reported orally. Please note traffic noise is not covered under statutory nuisance provisions.

3.3 Environmental Health (Air Quality):

17/02023/1DOC:

The construction traffic route proposed as part of the discharge of Condition 6 under this application is more acceptable than that proposed by 17/02024/1DOC because it does not actively direct construction traffic, whether arriving at or leaving the site, to travel via Hitchin. This should mean that this route will generate less traffic through the AQMAs in Hitchin than the route proposed by 17/02024/1DOC and therefore have a smaller adverse impact on the air quality in the AQMA.

17/02023/1DOC and 17/02024/1DOC

Ideally, for the protection of the health of the public within the AQMAs in Hitchin both of the construction traffic routes would prevent all construction traffic from travelling through both of the AQMAs in Hitchin. However, it is acknowledged that this may be considered unreasonable, given the existing road network in and around Hitchin and the permitted development site.

Recommendation:

My first recommendation is that **17/02023/1DOC** can be discharged, although I would request that, because there is no restriction on construction traffic passing through Hitchin to access Holwell Road, or on leaving Holwell Road, the following additional mitigation is required of the applicant.

All HGV (Heavy Goods/Duty Vehicles) and all LGV (Light Goods/Duty Vehicles) utilised as part of the construction phase of the permitted development must be Euro V or Euro VI engine compliant. And that a methodology is submitted to, and agreed by, the Local Planning Authority (LPA) to demonstrate how this will be managed, enforced and verified by the applicant/developer.

3.4 Hertfordshire and Middlesex Wildlife Trust:

No comments on this application - see comments on application ref. 17/02024/1DOC

3.5 Hertfordshire Ecology:

Nothing received at the time of writing. Any comments received to be updated.

3.6 Pirton Parish Council:

Nothing received at the time of writing. Any comments received to be updated.

3.7 Holwell Parish Council:

Nothing received at the time of writing. Any comments received to be updated.

3.8 **Response to Local Residents consultation:**

This application has generated significant public interest and Members are advised to read comments displayed on the Council's website which is updated regularly as comments are received. I set out below a high level summary of the issues raised:

* **Highway safety** - the construction traffic route through Holwell is unsafe. There are insufficient passing places on narrow roads. Construction traffic, including HGVs will lead to conflict with other road users leading to a risk of highway safety in many instances, particularly during busy periods. Many properties do not have a footpath outside their front doors and risk to pedestrian safety will increase also. All the rural roads around this site are unsuitable and the temporary new road should be constructed from the A600 to enable construction.

* **Congestion** - Construction is proposed to start at 9am therefore vehicles will be using these roads at peak periods adding to delays already caused by congestion, particularly on the Holwell Road/A600 junction which is already busy at peak periods. The construction project is due to last 3 years and the congestion will be disruptive for a considerable period.

* Some respondents consider that of the two options this is the least disruptive whereas others point out that Pirton residents also use the Holwell Road to access the A600 and these journeys will be disrupted.

4.0 Planning Considerations

4.1 Site & Surroundings

4.1.1 The application site is located to the east of Royal Oak Lane, south of Holwell Road and north of Hambridge Way. It has a frontage onto Holwell Road of approximately 65 metres and approximately 140 metres along Hambridge Way. The depth of the site is approximately 400 metres. The area of the site totals approximately 4.4 hectares and consists of an open field area for the majority of the northern part of the site bounded by landscaping along its eastern boundary and an area of agricultural buildings to the south of the site with a paddock area to the rear of these buildings. Part of the western boundary of the site is located adjacent to the Pirton Conservation Area. Three new detached properties are now located adjacent the site, to the rear of 40 Royal Oak Lane.

4.1.2 The construction route is outside the application site and on the public highway.

4.2 Proposal

4.2.1 The applicant seeks approval of the details required pursuant to condition no. 6 of outline planning permission no. 15/01618/1. The condition reads as follows:

Prior to the commencement of the development full details of a Construction Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Construction Management Plan shall contain the program of works on site, area of construction vehicle parking, storage and delivery of materials within the development site, construction vehicles wheel washing facilities, and details construction vehicle routing to and from the site.

Reason: In the interests of maintaining highway efficiency and safety.

4.2.3 The application is accompanied by two documents dated 4 August 2017, a Construction Route plan prepared by Waterman Infrastructure and a Construction Management Plan and Traffic Management Plan.

4.2.4 The key elements of the plan can be summarised as follows:

- * Deliveries to the site by HGVs limited to between 9am and 3pm;
- * Site working hours - 0800-1700 Monday to Friday; 0800-1300 on Saturdays and no work on Sundays or bank holidays;
- * Given the nature of the rural roads, HGVs limited in length to 12m;
- * As a result of restricted vehicle sizes, the length of the construction is likely to increase by 3 months than would otherwise had been the case. Total construction period likely to be 3 years as a result;
- * The proposed construction route is arrival from the A600 (Bedford Road), through Holwell Road - Pirton Road - Waterloo Road - Holwell Road to the site;
- * Departure from site - Holwell Road - Waterloo Road - Pirton Road - Holwell Road - A600 (Bedford Road);
- * The highway width survey has identified the need for the creation of one new passing place and two areas where the carriageway will need to be widened;
- * The developer will schedule deliveries to avoid conflict with local bus services;
- * Letter drops to local residents who live along key parts of the construction route;
- * Signage to be erected at both ends of Waterloo to communicate that this a construction route;
- * The CMP is a live a document to be monitored and reviewed by the developer;
- * Phase 1 is for 6 dwellings, associated infrastructure and works to the proposed 'Y' junction to be constructed with a mini compound on site;
- * The S278 works (i.e. passing place and carriageway widening) would be undertaken while phase 1 is being constructed and the S278 works will be completed before the wider development beyond phase 1. Phase 1 would be 8-10 months and is essentially the equivalent;
- * Phase 2 is the remaining 72 dwellings and associated infrastructure and would not commence until after the S278 works have been completed;
- * Materials and plant to be stored on site together with contractors car parking;
- * Site secured by 2.4m temporary fencing;
- * Dust control, wheel washing and street cleaning;
- * Pre and post construction condition survey with and repair of any damage;
- * Estimated 25-30 construction vehicles per day;

4.2.5 The option of a separate track being used from Hitchin Road has been discounted for the following reason:

'This route involves land outside CALA's control and potentially involves a number of separate land owners and requires the crossing of existing Rights of Way / Bridleways.'

4.3 Key Issues

4.3.1 Taking account of the local and national planning policy guidance outlined above and all comments received from interested parties I consider the main issues to be considered in the determination of this application to discharge the requirements of condition no. 6 of outline planning permission no. 15/01618/1 are as follows:

- * Whether the measures set out in the CMP would be safe;
- * Whether any harm to living conditions, use of the highway and congestion would be acceptable;
- * What realistic and reasonable alternatives are available?
- * Any other technical matters such as air quality and ecology issues must also be considered.

4.3.2 **The Principle of the Development and Procedural Matters**

Before addressing the key issues that are relevant to the determination of this application it is necessary to advise Members on procedural points.

- 4.3.3 The imposition of conditions of planning permission must among other tests be reasonable, enforceable and precise. To impose excessive burdens on developers when considering applications to discharge pre-commencement conditions local planning authorities need to be reasonable and proportionate. The NPPG advises that conditions of planning permission can be imposed which require the submission of further information, however this government guidance goes onto advise that:

'Where it is practical to do so, such conditions [i.e. pre-commencement conditions] should be discussed with the applicant before permission is granted to ensure that unreasonable burdens are not being imposed. The local planning authority should ensure that the timing of submission of any further details meets with the planned sequence of the developing the site. Conditions that unnecessarily affect an applicant's ability to bring development into use, allow a development to be occupied or otherwise impact on the proper implementation of the planning permission should not be used.'

- 4.3.4 It is also clear from case law that a condition cannot be imposed which effectively prevents a development from being implemented. The Planning Control Committee have granted outline planning permission and reserved matters approval for this development scheme (this combined is the planning permission). The local planning authority cannot then use condition no. 6 of the outline planning permission as a means to prevent the development going ahead. This would be akin to granting permission with one hand and taking it away with the other. On this basis I can only advise Members that there must be a CMP that is suitable to the Committee to fulfil the requirements of condition no. 6. To refuse every realistic option would prevent the development from going ahead. Moreover, in accordance with the requirements of the NPPG quoted above, any solution must not represent an unreasonable burden on the developer.

- 4.3.5 As with any decision to refuse planning permission or impose conditions, the applicant in this case has a right of appeal against any refusal to discharge the details of this condition. Any refusal must in my view be evidence led and based on planning policy considerations.

4.3.6 **What is Reasonable in this Context?**

The proposed CMP in this case requires the developer to enter into S278 Agreements with Hertfordshire County Council (Highways), as part of this process the applicant will need to prepare safety audits and receive necessary licences from the highway authority to carry out the works on the highway. As is mentioned above, the developer has until 30 May 2019 to start development on site. Whilst I am not familiar with the technical details I consider that this process can realistically be undertaken within this time frame.

- 4.3.7 The CMP also relies upon use by the developer of the public highway to carry out their legitimate business of building homes for which they have planning permission. It is in my view unreasonable and disproportionate to require the developer to construct a new road to facilitate construction of this development; the new road would need to be planned and constructed prior to commencement on site and in my view this would threaten their ability to implement the development. Attractive as this option may sound it would in my view be an unreasonable demand on the developer and to insist upon this as the only option would be a very difficult position to defend at appeal.

4.3.8 The Council as part of its wider planning strategy is seeking to plan positively for housing growth in the Submission Local Plan (2011-2031); part of that strategy is to demonstrate a five year land supply of deliverable housing sites. It may be necessary to defend this position against hostile planning applications and appeals for unplanned development schemes outside the land allocation sites. If the Council places unreasonable burdens on house builders in situations where planning permission has been granted for much needed homes (including 40% affordable housing in this case) other applicant's may seek to demonstrate that the Council cannot realistically demonstrate proper housing delivery.

4.3.9 It is therefore necessary in my view to carefully consider the merits of the proposal set out in this CMP. The following paragraphs set out my analysis of these issues.

4.3.10 **Highway Safety**

The highway authority consider that this CMP is capable of being safe in relation to highway movement from their point of view, subject to delivery times being restricted from 9.30am to 3.00pm rather than the currently proposed 9.00am start. However, the CMP requires works to the highway to widen the highway and provide passing places. To undertake these works the developer needs to enter a S278 agreement with the County Council, receive necessary licences and safety audit approval. These separate legal processes are for Hertfordshire County Council (Highways) to determine not the local planning authority.

4.3.11 However, I am aware that there is significant public interest and concern about the proposed construction traffic route set out in this CMP. As the highway authority agree (see appendix 3) I propose in the recommendation set out below that Members resolve to grant the proposed CMP set out in this application; subject to delivery times being after 9.30am and before 3.00pm and subject to the applicant securing the necessary S278 Agreement (including associated safety audit approval and highway authority licences to undertake the necessary highway improvements to enable a safe construction route on the public highway). If Members agree with this recommendation it would mean that the requirements of condition no. 6 of outline planning permission no. 15/01618/1 cannot be formally discharged until the safety audits, licences and the S278 Agreement have been agreed between the developer and the highway authority.

4.3.12 Since condition no. 6 is a pre-commencement condition work cannot legally commence on site until the condition is formally discharged which as is explained above cannot happen until the licences, safety audits and legal agreements have been completed. In my view by agreeing this recommendation Members can be reassured that they have prevented any development on site until all highway safety matter associated with the CMP have been resolved to the satisfaction of the highway authority.

4.3.13 **Congestion and Living Conditions**

As is advised above, noise impacts on residents from traffic using the public highway is not capable of being a matter that can be addressed under noise nuisance powers contained within the Environmental Protection Act. In any event by restricting deliveries to the times set out and extended to 9.30am to 3.00pm I consider that noise from passing traffic would not be unduly detrimental to living conditions.

4.3.14 Construction noise on site can only take place in the hours set out above, no earlier than 8.00am and no later than 5.00pm with no construction on Sundays or bank holidays. In my view this is again reasonable and would not unduly harm the noise climate in the local area.

- 4.3.15 In terms of congestion, I understand concerns about increased journey times over the 3 year construction period. However, this must be considered in the context of the planned growth across the District that is needed to meet our Objectively Assessed housing Needs (OAN) set out in the submission Local Plan (15,950 homes from 2011-2031). The plan indicates that from 2022 approximately 1200 homes per annum will be constructed in the District (compared with recent annual figures of 300-400 homes per annum). If these figures are anywhere near realistic construction traffic across many roads in North Hertfordshire will be an every day reality for most communities.
- 4.3.16 The government recognises that development and construction of new development inevitably increases congestion, particularly in areas of high housing demand. The NPPF paragraph 32 argues that permission can only be refused on transport grounds when it can be demonstrated that a 'severe' impact would result.
- 4.3.17 In my view this policy position has relevance to this application and on that basis I do not consider that it can be realistically argued that any additional congestion would be a severe impact.
- 4.3.18 In terms of air quality I also recommend below that the condition is only approved subject to the additional air quality requirements recommended by the Council's environmental protection officer.

4.4 Conclusion

- 4.4.1 This CMP option of the many considered has not been met by any objections raised by the various technical consultees. On that basis I can only recommend that Members resolve to approve the submitted details subject to the careful safeguards and caveats that I have set out below.
- 4.4.2 I do not consider that forcing the developer to construct a new road, temporary or otherwise, across open countryside is in any way realistic, proportionate or justifiable at any subsequent appeal. To insist on this approach would threaten the ability of the developer to construct the housing for which they have planning permission from this Committee. Housing that is needed in the District to meet our needs and to assist the Council in demonstrating a five year supply of deliverable housing sites.
- 4.4.3 On that basis I recommend that Members resolved to approve the proposed CMP and discharge the requirements of condition no. 6 of planning permission no. 15/01618/1 subject to the carefully worded caveats set out below in the recommendations.

5.0 Legal Implications

- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

6.1 That Members resolve to **APPROVE** the Construction Management Plan (CMP) and discharge the requirements of condition no. 6 of planning permission no. 15/01618/1 subject to the following:

1. That the applicant submits to the Council a revised CMP which specifies that any deliveries to the site shall not take place until 9.30am and not after 3.00pm on any day. The revised CMP must also stipulate that all HGV (Heavy Goods/Duty Vehicles) and all LGV (Light Goods/Duty Vehicles) utilised as part of the construction phase of the permitted development must be Euro V or Euro VI engine compliant. And include a methodology to demonstrate how this will be managed, enforced and verified by the applicant/developer;

2. That the requirements of condition no. 6 of planning permission no. 15/01618/1 are not discharged until the applicant has secured the necessary S278 Agreement with Hertfordshire County Council (Highways) in order to implement the highway alterations to secure road widening and passing places (including associated safety audits and highway licences);

3. That Members delegate the decision to approve the CMP and discharge the requirements of condition no. 6 of planning permission no. 15/01618/1 to the Development and Conservation Manager following the completion of points 1) and 2) above;

6.2 In the event that the applicant submits a deemed discharge consent application before points 1) and 2) of recommendation 6.1 are satisfied; that Members delegate powers to the Development and Conservation Manager to refuse the discharge of condition application on the basis of failure to comply with points 1), 2) or both before the expiration of 2 weeks from the date of the deemed discharge application.