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| <b>ITEM NO:</b> | <u>Location:</u>  | <b>Land Adjacent To Elm Tree Farm, Hambridge Way, Pirton</b>  |
| <b>6</b>        | <u>Applicant:</u> | <b>CALA Homes</b>   |
|                 | <u>Proposal:</u>  | <b>Condition 6 - Construction Management Plan &amp; Traffic Management Plan - Pirton and Holwell route by CALA dated 4/8/17 Construction Route Plan - Arrival via Pirton, Departure via Holwell by Waterman Infrastructure &amp; Environment Ltd dated 4th August 2017 (as Discharge of Condition of Planning Permission 15/01618/1 granted 25/05/2016)</b> |
|                 | <u>Ref. No:</u>   | <b>17/02024/ 1DOC</b>   |
|                 | <u>Officer:</u>   | <b>Simon Ellis</b>  |

**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 See this section of the report relating to previous agenda item (ref. 17/02023/1DOC).

## **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

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

Policy SP12 - Green Infrastructure, Biodiversity and Landscape

## **3.0 Representations**

### **3.1 Hertfordshire County Council (Highways):**

See full text attached as **appendix 1**. Recommend refusal of this proposed Construction Management Plan on the basis of insufficient information

### **3.2 Hertfordshire and Middlesex Wildlife Trust:**

Note that guidance will be given to all contractors and drivers to be aware of the Heritage Verge Local Wildlife site. The developer also refers to the route via Pirton (along Hitchin Road) being one way, but that is only CALA's own construction traffic. The Wildlife Trust remains concerned that the one way routing is only for construction vehicles, the developer has no control over other road users coming in the opposite direction which still risks large HGVs potentially mounting the verge and harming the Heritage Verge. Suggest that to overcome this objection the construction route should be re-routed or infrastructure placed on the verge to prevent damage. There is an obligation on the developer to preserve the natural environment in local and national planning policy.

### **3.3 Hertfordshire Ecology:**

No response received at the time of writing. Any comments received to be updated.

### **3.4 Environmental Health (Air Quality):**

The submission to discharge Condition 6 that has been made under planning application 17/02024/1DOC proposes a construction traffic route that requires all construction traffic travelling from the north of the permitted development site to travel via Hitchin in order to access the permitted development site. In doing so this will require all of the construction traffic to travel through the Payne's Park Air Quality Management Area (AQMA) (Figure 1) and as such it will have an adverse impact on the local air quality in that area of Hitchin. Furthermore, it will hamper North Hertfordshire District Council's statutory duty to improve air quality in an area where a nationally established Air Quality Objective is already being breached.

In combination with the assumption that there is to be no restriction on construction traffic arriving from the south of the permitted development, whether via the A602 (Stevenage Road and location of the other AQMA in North Hertfordshire [Figure 2]) or the B656, this will mean that all of the arriving construction traffic will be funnelled through the Payne's Park AQMA.

With a construction programme stated to last approximately three years this is not an acceptable scenario from the perspective of protecting local air quality, when an alternative, apparently acceptable, solution is available. An argument could also be made that, should the route proposed by 17/02024/1DOC be chosen, it will not be compatible with the aim of paragraph 124 of the NPPF.

#### **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:**

That **17/02024/1DOC** should not be discharged because it will result in a detrimental impact on the air quality within an established AQMA.

Should a planning decision be taken that the adverse impacts of the route proposed by **17/02023/1DOC** outweigh the adverse public health implications of the additional air pollution arising from the selection of the route proposed by **17/02024/1DOC** then I would request that the local planning authority takes one of the following steps:

- (1) **Requires** mitigation from the applicant to minimise the impact on local air quality within the Hitchin AQMAs by **requiring** 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 that a methodology is submitted to, and agreed by, the LPA to demonstrate how this will be managed, enforced and verified by the applicant/developer'*.

Or if (1) is not possible

- (2) That the LPA **refuse** to discharge **Condition 6** pursuant to **17/02024/1DOC**.

#### **3.5 Environmental Health (Noise):**

Comments relating to alternative site operating times and delivery times are noted. I agree that the proposed hours detailed in Section 3.2.1 – Site hours 8.00hrs to 17.00hrs Monday to Friday, 08.00hrs to 13.00hrs Saturday and no Sunday or Bank Holiday working and Section 3.2.2 Site Delivery times 09.00hrs to 15.00hrs Monday to Friday and 08.00hrs to 13.00hrs on Saturdays are appropriate in order to facilitate earlier completion of the overall Development.

Arrangements will be put in place to liaise with local residents (Section 4.2).

Appropriate control measures have been proposed to address dust, mud, noise, vibration and materials deliveries (Section 4).

I therefore recommend that the Condition may be partly discharged (in so far as it relates to the above matters) as follows:-

Pursuant to Condition 6 of planning permission 15/01618/1, the control measures detailed in "Construction Management Plan (and Traffic Management Plan)", Route Pirton and Holwell, Land south of Holwell Road, Pirton, by CALA Homes, dated 4/8/2017 shall be Approved by the Local Planning Authority.

- 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 Pirton and 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.

#### **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.**

4.2.2 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. The key elements of the CMP are 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 Hitchin along A505 and Priors Hill, through Shillington Road - Holwell Road - Waterloo Road to the construction site as a one way route for construction traffic;
- \* Departure from site - Holwell Road - Waterloo Road - Pirton Road - Holwell Road - A600 (Bedford Road) as a one way route for construction traffic;
- \* 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;

4.2.3 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;
- \* Any other technical matters such as air quality and ecology issues must also be considered.
- \* What realistic and reasonable alternatives are available?

The following paragraphs will address each of these main issues in turn.

#### 4.3.2 **Highways Safety**

The arbiters of highway safety in Hertfordshire are Hertfordshire County Council acting as the Highway Authority. As can be seen from their response to this application set out in appendix 1 they state that there are a number of matters that need further clarification in this CMP. As these matters have not been addressed and given the risk of a deemed discharge application (which clearly also applies to this application) I consider that the most effective and straight forward way to seek this information is to refuse the details currently submitted on the basis of lack of information and explain what information is required in the decision letter.

#### 4.3.3 The information still required in relation to this proposed CMP which the Highway Authority has requested is summarised here:

- \* The swept path assessment only shows a large vehicle; the assessment still requires a swept path assessment to be provided showing a large car and large vehicle;
- \* Deliveries are proposed to commence at 9.00am and the Highway Authority require deliveries to commence at 9.30am at the earliest;
- \* The CMP does not contain the necessary road safety audits to demonstrate that proposed mitigation measures are safe and appropriate; this remains a requirement;
- \* There are a number of regular parking locations and on this basis, the Highway Authority require these locations to be shown on a revised swept path analysis;
- \* Improvements to the highway safety assessment for use of Hitchin Road by construction vehicles is required;
- \* Information is also needed to address the impact of construction traffic on the Heritage verge along Pirton Road (see concerns of Wildlife Trust reported above);
- \* Information is also needed to address the impact of construction traffic on the Air Quality Management Areas (AQMAs) in North Hertfordshire as a result of this longer route proposed (see comments of Environmental Protection Officer reported above);
- \* It is also noted that parking will need to be restricted as a result of the Pirton route on delivery days and on this basis the Highway Authority require further information as to how this can be managed to ensure that parking is not displaced to inappropriate and unsafe locations on the highway network.

#### 4.3.4 Following discussions with the Highway Authority they have advised me that in this case the information gap is so wide that they recommend refusal of the proposed CMP on the basis of lack of information to satisfy highway safety matters. I have no reason to disagree with this analysis.

#### 4.3.5 **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 (note highway authorities requirement to extend delivery times to no earlier than 9.30am is a highway safety requirement noise matter) I consider that noise from passing traffic would not be unduly detrimental to living conditions. This is confirmed by the Council's environmental health officer as set out above.

#### 4.3.6 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.

- 4.3.7 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.
- 4.3.8 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
- 4.3.9 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 represent a severe impact.

#### 4.3.10 **Air Quality**

This proposed route would inevitably mean that more construction traffic associated with this development would need to travel through the Air Quality Management Area (AQMA) designated by the Council in Hitchin than would be case with alternative routes, such as that set out in application ref. 17/02023/1DOC (previous agenda item). To consider this matter I have sought the advice of the Council's Environmental Protection Officer and his comments are set out above. As Members will note he recommends that this option is rejected as likely to cause the most damage to air quality in the Hitchin AQMA. In my view this clear technical matter which relates to human health is sufficient reason in of itself to reject the option of routing construction traffic through Hitchin and into Pirton along the Hitchin Road.

- 4.3.11 Incidentally an option that has been discounted by the applicant (use of a track from Hitchin Road) would also fall into this category as to get to the track would require another route, most likely through Hitchin.
- 4.3.12 I have discussed this matter with the Council's Environmental Protection Officer and he acknowledges that all realistic options would involve some construction traffic travelling through the Hitchin AQMA but this route would be the most damaging in his assessment. I have no reason to disagree with this analysis and I also recommend refusal of this option on this basis.

#### 4.3.13 **Ecology**

The other identified environmental risk associated with this route is the potential damage which may be caused to the Heritage Verge local wildlife site, which exists along the Hitchin Road into Pirton. Although this road is mainly straight and two way roads both the Highway Authority and the Hertfordshire and Middlesex Wildlife Trust have raised concerns regarding in their view inadequate mitigation set out in the CMP to limit any potential damage from vehicles harming the verge. I have also sought the views of Hertfordshire Ecology on this application and at the time of writing I have not received their comments.

4.3.14 I have however discussed the matter with Hertfordshire Ecology and whilst they indicated that they would have no fundamental objections to construction traffic associated with this development using Hitchin Road to access the site they did indicate that some additional mitigation in the CMP would be necessary. Suggestions they put forward were review periods with regular surveys of the verge, with the option of switching to alternative construction routes if damage is identified during the construction project. Such measures are not contained in the CMP and on this basis it is inadequate to address these matters as currently drafted. Hertfordshire Ecology have reviewed the comments expressed by the Wildlife Trust and did not consider that the option of placing physical barriers along the verge which has been put forward by the Trust was realistic or proportionate in this instance and that the survey and review option was in their view the most effective way of mitigating this potential impact.

4.3.15 In relation to this matter Members must note that were the applicant to lodge an appeal against any refusal to discharge the requirements of this condition the Council would rely on evidence from Hertfordshire Ecology (the statutory body) to support such a refusal rather than the Wildlife Trust.

4.3.16 Whilst I will update the Committee on any detailed comments received from Hertfordshire Ecology I consider that the comments received from Hertfordshire County Council (Highways) and the Wildlife Trust who express concerns about the absence of a clear mitigation strategy set out in the CMP to avoid damage to the Heritage Verge is sufficient to form a separate reason for refusal of this proposal.

#### 4.3.17 **Reasonable Alternatives**

Many responses to the two applications have expressed confusion over how the Council can determine two alternatives. I share this confusion and consider that there should be only one CMP for this development scheme, to approve two would lead to chaos in relation to enforcement and public understanding if the developer decided to mix and match the alternatives.

4.3.18 On this basis if Member are minded to agree with my recommendation to provisionally approve the CMP set out in application no. 17/02023/1DOC I propose to add a further reason for refusal to this CMP stating that the development should concentrate on implementing only one CMP so as to avoid confusion and maintain public confidence. I have no reason to believe that the applicant would not pursue only one CMP but I acknowledge that the unexpected submission of two separate applications has generated some confusion and for the sake of clarifying this I recommend that this is set out in the decision letter.

#### 4.4 **Conclusion**

4.4.1 In my view the inadequacies of this CMP are sufficient to justify a refusal of permission for the clear reasons set out below. This recommendation is supported by key technical consultees as is clearly explained above.

4.4.2 Whilst from a public impact point of view this option may have seemed more attractive by spreading the construction traffic over a wider area and in one direction only I am afraid that as the CMP has proved to be inadequate and indeed potentially harmful in terms of air quality I do not consider this option to be suitable. As is set out in the previous report it is not possible to negotiate with applications of this nature when pressure is put on officers to report applications to Committee meeting and with the threat of a deemed discharge application (giving the Council only two weeks notice to make a decision). On this basis I have decided that this application should be judged on the basis of what is contained in the document as submitted and consulted on rather than enter protracted dialogue with the applicant and relevant authorities to seek improvements through negotiation.



## **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 permission to Discharge the requirements of Condition no. 6 of outline planning permission no. 15/01618/1 be **REFUSED** for the following reasons:

1. The submission to discharge Condition 6 that has been made under planning application 17/02024/1DOC proposes a construction traffic route that requires all construction traffic travelling from the north of the permitted development site to travel via Hitchin in order to access the permitted development site. In doing so this will require all of the construction traffic to travel through the Payne's Park Air Quality Management Area (AQMA) and as such it will have an adverse impact on the local air quality in that area of Hitchin. Furthermore, it will hamper North Hertfordshire District Council's statutory duty to improve air quality in an area where a nationally established Air Quality Objective is already being breached. In combination with the assumption that there is to be no restriction on construction traffic arriving from the south of the permitted development, whether via the A602 (Stevenage Road and location of the other AQMA in North Hertfordshire) or the B656, this will mean that all of the arriving construction traffic will be funnelled through the Payne's Park AQMA. With a construction programme stated to last approximately three years this is not an acceptable scenario from the perspective of protecting local air quality, when an alternative, apparently acceptable, solution is available. The proposal therefore conflicts with the requirements of Policy D4 of the North Hertfordshire District Submission Local Plan (2011-2031) and Section 11, paragraph 124 of the National Planning Policy Framework (NPPF).
2. The proposed Construction Management Plan (CMP) does not contain sufficient mitigation measures to prevent damage to the Heritage Verge, Local Wildlife Site, along Hitchin Road into Pirton (the main construction traffic route leading to the application site). Without such mitigation the Council cannot be sure that the wildlife interests of this designated site can be properly protected from construction traffic. The proposal therefore conflicts with the requirements of Policy NE2 of the North Hertfordshire District Submission Local Plan (2011-2031) and Section 11 of the National Planning Policy Framework (NPPF).
3. The proposed Construction Management Plan (CMP) contains insufficient information in relation to the following matters:  
The swept path assessment only shows a large vehicle; the assessment still requires a swept path assessment to be provided showing a large car and large vehicle;  
\* Deliveries are proposed to commence at 9.00am and the Highway Authority require deliveries to commence at 9.30am at the earliest;  
\* The CMP does not contain the necessary road safety audits to demonstrate that proposed mitigation measures are safe and appropriate; this remains a requirement;  
\* There are a number of regular parking locations and on this basis, the Highway Authority require these locations to be shown on a revised swept path analysis;

\* Improvements to the highway safety assessment for use of Hitchin Road by construction vehicles is required;

\* It is also noted that parking will need to be restricted as a result of the Pirton route on delivery days and on this basis the Highway Authority require further information as to how this can be managed to ensure that parking is not displaced to inappropriate and unsafe locations on the highway network. Due to these inadequacies the Local Planning Authority is unable to determine whether the proposed CMP is safe in relation to use of the public highway by construction vehicles associated with the development. The proposal therefore conflicts with Policy T1 of the North Hertfordshire Submission Local Plan (2011-2031).

4. In the opinion of the Local Planning Authority there should be only one Construction Management Plan and associated construction traffic route associated with this development proposal in the interest of highway safety and public understanding. On this basis this second proposal should be refused permission if the alternative scheme (set out in application no. 17/02023/1DOC) is approved. Two construction routes for the same development would be contrary to the requirements of Policy T1 of the North Hertfordshire District Submission Local Plan (2011-2031).