

NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

**MEETING HELD IN THE SPIRELLA BALLROOM, ICKNIELD WAY, LETCHWORTH
GARDEN CITY ON THURSDAY, 28TH SEPTEMBER, 2017 AT 7.30 PM**

MINUTES

Present: *Councillors Councillor David Barnard (Chairman), John Booth, Paul Clark, Bill Davidson, Jean Green, Tony Hunter, Ian Mantle, Michael Muir, Harry Spencer-Smith and Martin Stears-Handscomb.*

In Attendance:

Simon Ellis (Development and Conservation Manager), Richard Tiffin (Area Planning Officer), Nurainatta Katevu (Property and Planning Lawyer) and Hilary Dineen (Committee and Member Services Officer).

Also Present:

At the commencement of the meeting Councillor David Levett and approximately 83 members of the public, including 4 registered speakers and 1 Member Advocate (Councillor Claire Strong).

59 APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors John Bishop, Cathryn Henry and Fiona Hill.

60 NOTIFICATION OF OTHER BUSINESS

There was no other business notified.

61 CHAIRMAN'S ANNOUNCEMENTS

- (1) The Chairman welcomed the Committee, officers, general public and speakers to this Planning Control Committee Meeting;
- (2) The Chairman announced that Members of the public and the press may use their devices to film/photograph, or make a sound recording of the meeting, but he asked them to not use flash and to disable any beeps or other sound notifications that emitted from their devices;
- (3) The Chairman reminded Members and speakers that in line with Council policy, this meeting would be audio recorded;
- (4) The Chairman advised that Members would be using hand held microphones and asked they wait until they had been handed a microphone before starting to speak;
- (5) The Chairman requested that all Members, officers and speakers announce their names before speaking;
- (6) The Chairman clarified that, for the two Pirton/Holwell construction route items, he had allowed the following:
 - (i) 6 minutes in total for Mr John Burden and Mr Brian Clamp (Holwell against CALA Traffic) who would be sharing the time on application 17/02023/1DOC.

- (ii) 6 minutes for Parish Councillor Diane Burleigh (Pirton Parish Council) on application 17/02024/1DOC.
- (iii) 6 minutes for the Councillor Advocate (Councillor Claire Strong) on each item.
- (iii) 6 minutes for the applicant on each item.

The bell would sound after 5½ minutes as a warning and again at 6 minutes, to signify that the speaker must cease.

- (7) Members were reminded that any declarations of interest in respect of any business set out in the agenda should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and were required to notify the Chairman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest which required they leave the room under Paragraph 7.4 of the Code of Conduct, could speak on the item, but must leave the room before the debate and vote.

62 PUBLIC PARTICIPATION

The Chairman confirmed that the 4 registered speakers and 1 Member Advocate were present.

63 17/02023/1DOC - LAND ADJACENT TO ELM TREE FARM, HAMBRIDGE WAY, PIRTON

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).

The Development and Conservation Manager advised that, due to the high volume of representations received since the report was finalised, he had sent Members a briefing note by email on 26 September 2017.

All comments received were displayed on the Council's website and Members had been strongly advised to review these comments shortly before the meeting in order to have an up to date picture.

In order to assist Members, he had provided a very high level summary of new comments received as follows:

CPRE

Perhaps sites like this should not be granted permission or allocated in Local Plans as construction routes are impractical in rural areas. In this case any damage to verge and cutting has not been assessed properly.

Holwell Parish Council

This route is unsafe, absurd and has not been properly safety audited and does not meet the criteria of the condition.

Pirton Parish Council

This route is relatively safe – there are some blind spots and they have concerns about the Waterloo Road area;

Noise from the reversing vehicles etc;

Impact on dark skies from lighting;

The development project should be enclosed by hoarding at all times;

Local Residents

- The tracking shown on the plans does not show where cars are regularly parked therefore it is misleading and the route in and out of Holwell is unsafe;
- The officer report states that a new road would be unreasonable whereas independent experts argue that it is the only safe option;
- The Council's Environmental Protection Officer and Hertfordshire County Council (Highways) believe that the Pirton – Holwell through-route is more likely to mean vehicles entering the Hitchin Air Quality Management Area. They argue that construction vehicles are likely to go through the Hitchin Air Quality Management Area whichever route is chosen so this is biased against the Holwell only route;
- Hertfordshire County Council (Highways) have not objected to an off-road route as suggested by CALA Homes in their Construction Management Plan, so this option should be explored further;
- Archaeological evaluations of road verges should be undertaken before any construction on the verge for road widening;
- Inconsistent approach from Hertfordshire County Council (Highways) demanding two way tracking for the through route but not the Holwell in and out route;
- Children accessing Holwell School would be at risk from construction traffic (from the school governors).

The Development and Conservation Manager presented the report, supported by a visual presentation consisting of plans, drawings and photographs of the site.

He referred to the recommendations as set out at Paragraph 6.1 of the report and stated that he was not advising that the condition be discharged this evening, but rather that the construction management plan be approved and only discharge the condition subject to the following elements:

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.

The Development and Conservation Manager advised that to his knowledge CALA had agreed to this condition

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).

The Development and Conservation Manager advised that the reason for this element was that Members had previously raised concerns regarding the details of the proposed mitigation measures that would be put in place on the Holwell Road. As the construction management plan did not include those exact details he recommended a cautionary approach whereby Members allow the condition to be discharged, but only after the details had been secured through a S278 agreement.

This condition would mean that the development could not commence until the agreement had taken place as the original permission had a condition stating that no development shall take place until the construction management plan had been approved and approval of the construction management plan would not take place until the S278 agreement had taken place.

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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;

The Development and Conservation Manager referred to the recommendation contained at Paragraph 6.2 of the report and explained that legislation and regulations did not allow for continued deferment of a decision, as the applicant could submit a deemed discharge consent application, which was a two week notice to make the Council come to a conclusion about their submission. It was therefore necessary to hold this special meeting in order to make a decision in the timescales. This recommendation protected the Council's position should a deemed discharge consent application be submitted prior to conditions 1 and 2 being met.

The Development and Conservation Manager reminded Members that there was no role for them or the Local Planning Authority to play in the S278 agreement.

If the S278 agreement was not able to be completed then the developers would have to return with alternative solutions.

Mr John Burden and Mr Brian Clamp, Holwell Against CALA Traffic, thanked the Chairman for the opportunity to address the Committee in objection to the application.

Mr Burden advised that he was speaking for Holwell Against CALA Traffic, Holwell Parish Council and Pirton Parish Council and introduced Mr Clamp as an experienced Highways and Traffic Engineer.

The main thrust of the presentation was that CALA Homes had provided scant evidence to satisfy Condition 6 and that to refuse this and the next application was the only decision that could be fully justified so that a much safer off-road option could be considered,

It was now universally accepted, including by CALA, that the roads through Holwell and Pirton were totally unsuitable for heavy goods vehicles, even with so-call improvements, with over 400 objections testifying to this.

The considerable damage to the road surfaces, verges and banks through Holwell demonstrated that the roads were far too narrow with several dangerous tight and blind bends.

This was unsuitable for existing traffic, let alone an increase of 60 heavy goods vehicles per day, plus scores of contractors vans for a minimum of three years.

Condition 6 was intended to protect and maintain traffic safety and efficiency in the face of this enormous increase in heavy traffic.

Clearly the Holwell only route did not have the safe capacity to comply with this condition, under such an overwhelming additional volume of heavy traffic.

The Highways Authority required CALA to demonstrate how Condition 6 could be satisfied in the case of both routes however that evidence was not forthcoming on the one-way Pirton/Holwell route and that has been recommended for refusal.

Even less evidence had been provided for the Holwell only route and yet this had been recommended for approval.

This was incompetence on the part of the Highway Authority.

CALA's proposal to manage construction traffic remotely to reduce conflict with existing traffic, such as buses, sounds good in theory, but in practice would not work.

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Traffic management alone would not satisfy Condition 6 because for two HGVs to pass safely on a straight carriageway, a road must be at least 5.5 metres wide and on bends 6.75 metres wide. The Holwell route was never more than 5.5 metres and was frequently well below 5 metres, with the narrowest part being only 3.3 metres wide.

So where was the evidence that a few passing places, as proposed by CALA, would make the route safe?

Vehicle tracking analysis or swept path analysis was widely used to test the safety and efficiency of a route. The only tracking test carried out by CALA was of a single lorry traveling in one direction only.

No two way analysis had been carried out of heavy vehicles against other CALA HGVs. This was essential in testing the two way Holwell only route.

Also no two way analysis had been carried out of heavy vehicles against existing HGVs such as busses, agricultural vehicles, delivery and construction vehicles. This was essential in testing the one way route through Pirton and Holwell.

Highways merely requested minimal tracking testing of a lorry against an oncoming car.

Even this request was ignored.

CALA had not demonstrated that the route would operate safely and efficiently for all predicted traffic on both routes.

Hence Condition 6 had not been satisfied and, as a result, they accused Highways of a dereliction of duty in recommending the removal of the condition without the necessary evidence.

CALA was aware that a full racking analysis would not produce the results to satisfy the condition, because the road was sub-standard, so they relied heavily on subjective evidence in their application and highways swallowed this hook, line and sinker.

Moreover, neither of the two routes could be improved to the extent required to satisfy the condition without causing significant environmental damage, loss of village character and heritage.

Therefore another solution must be investigated.

In May this Committee requested that an off-road route to the site be investigated by CALA.

A viable off-road route existed over private land, with a single landowner, who was willing to discuss the route, without seeking ransom values. However CALA dismissed the proposal, citing problems with rights of way.

We were assured by the Rights of Way officer that these could be overcome in principal, as was the case with the temporary haul road over the same Icknield Way for the Hitchin rail flyover construction.

CALA had defied the Committee's request.

CALA also gave the impression that Highways had judged this option to be not viable, when it had not even been considered by them.

Thanks to Holwell Against CALA Traffic, Highways confirmed that this was a deception.

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The Committee had been placed in an invidious position, having been misled by the developer and poorly served by Highways officers.

Mr Burden concluded by asking Members not to jeopardise the safety of Holwell residents and turn the village into a service road for construction vehicles.

He asked Members to refuse this application and the next to be heard and insist on a safe and sustainable alternative.

The Chairman thanked Mr Burden and Mr Clamp for their presentation

Councillor Claire Strong, a Member Advocate speaking in objection to the application, thanked the Chairman for the opportunity to address the Committee.

Councillor Strong thanked the Committee for previously deferring the application and Officers for presenting the application to this Committee again.

She reminded Members that on the previous occasion that she addressed the Committee regarding the construction route she had asked the Committee to think outside of the box. She had suggested that the applicant, officers and Highways be requested to go away and do some proper work regarding an alternative solution.

It would seem that an alternative was available, but no-one wanted to investigate it.

She stated that she was disappointed that Highways would not consider an alternative solution, just because they hadn't had an application detailing that route.

There was a need to make Holwell safe with HGV vehicles passing in both directions.

Members had visited the route and had seen the pictures that demonstrate what Waterloo Lane was like

It wasn't only the issues with Waterloo Lane, but the route to get to this lane, either via Hitchin Road or Pirton Road. Neither road was sufficient in width, even to have white lines on the roads. There was always a little trepidation when driving along these roads as to what you might meet and whether you might have to back up.

Imagine how it would be with HGV lorries going in both directions.

Officers stated that the condition could be discharged providing there was a S278 agreement in place and talked about mitigation measures on the Holwell Road, but they did not mention Waterloo Lane or Pirton Road, where Councillor Strong lived.

If Pirton Road were widened to provide mitigation it would destroy the rural village feel.

Councillor Strong did not believe that there was any way in which the roads through either Pirton or Holwell could be made viable for construction traffic without rebuilding the whole route.

So why were the developers not considering building a route that would go round a few fields and that would not cause inconvenience to residents and would not endanger walkers, riders, cyclists and anyone else using the existing roads.

The alternative route was a simple option and, she considered a cheaper option in order to secure the whole of the route and make it of a standard suitable for HGV lorries.

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Councillor Strong asked Members to refuse the application, as perhaps then the developer may provide a construction management plan that considered the third option that Highways would then be able to comment on.

Councillor Strong concluded by stating that she had been inundated with information, as had the Members of this Committee and the message was clear that there was no clear safe route to access this construction site. The only way to access the site was to apply out of the box thinking.

She implored Members to refuse the application in order to make CALA consider an alternative way to get to the site.

The Chairman thanked Councillor Strong for her presentation.

Mr Philip Wright, CALA Homes, the Applicant and Mr Andrew Trowbridge, Waterman Group, thanked the Chairman for the opportunity to address the Committee in support of the application.

Mr Wright advised that, whilst there remained local concern, the preferred route being considered was acceptable in highways terms.

The specific benefits of this route were:

- It was the shortest route to the nearest A road;
- It impacted on the lowest number of properties;
- Personal injury accident information showed only one accident in the 18 years from 1999 to 2016;
- The section of the routes through the village was less than one mile in length, with half of this distance was covered by traffic calming measures;
- The roads had a footway on one side of the carriageway;
- The current highway measurements were commonplace for rural areas;
- Forward visibility had been assessed by experts and was considered to be good especially when viewed from an elevated position;
- The good forward visibility would enable drivers to give way to oncoming vehicles;

In addition to the construction management plan, CALA, in conjunction with Highways, would improve the route by installing passing places that were designed to accommodate HGVs.

Following in-depth negotiation with Highways and Planning officers this route included proposals that he believed to be the most effective and least harmful way to get construction traffic to and from the site for the temporary construction period only.

It should be recognised that the route to be used was a public highway and that construction traffic was legally permitted to be used on it on a day to day basis without restriction.

He asked that full consideration be given to this route as access to the site especially as the aim was to make the route safer for such vehicles to use by providing mitigation measures.

He asked that full consideration be given for approval of the officer's recommendations.

Mr Trowbridge informed Members that he was a transport planner for the Waterman Group and that his company had been employed to consult CALA regarding the construction route options for the site.

He understood the concerns that have been raised by both Holwell and Pirton residents and that the route was contentious, but CALA wanted to develop the site in the safest possible manner.

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At the outline stage this had been deliverable in terms of the planning conditions attached to the outline planning permission.

The main problem was the number of variations of route to the site with variations either via Pirton or Holwell.

The suggested options to provide direct access from either the A600 Bedford or the Hitchin Road had been considered, but would involve the construction of a road on land not within their control, that would cross public highways and land that was currently used for farming. These options would also require significant engineering and construction work to provide roads suitable for construction traffic and for these reasons, neither option was viable.

Since the original route, submitted with the construction management plan, was deferred they had listened to residents and reassessed the options available for construction traffic

Whilst he appreciated the concerns, the proposed passing places would help with traffic flow, which would provide safer passing places than currently existed.

These would be located and designed in conjunction with Hertfordshire Highways requirement and be on land in the ownership of Highways

There would be two passing places on Holwell Lane that would widen the road by 3 metres and the road would be widened by 2.5 metres at the bend, which would enable a bus and a crane to pass as well as the use of existing informal passing places, which would be resurfaced, and cutting back of vegetation in order to provide the maximum levels of visibility achievable.

It should be noted that, whilst CALA did not have control over either the Pirton or the Holwell routes, the likelihood of local busses meeting HGVs on the route was small and the current position was that HGVs used the road and was not known to cause problems.

CALA would also consider the bus timetable when arranging deliveries to try to avoid possible conflict.

CALA would typically use articulated vehicles, delivery times had been constructed in order to avoid morning and evening busy traffic times and key school periods.

A full condition survey had been agreed to prior the beginning of construction and CALA would make good any damage caused.

The construction management plan was a live document which had been prepared, taking into account feedback from local residents and Parish Councils, in order to improve the construction process throughout the construction period.

It would be for people to speak to the site manager, to discuss any issues in respect of any issues caused by temporary traffic.

Mr Trowbridge concluded by stating that, whilst he appreciated the concerns of local residents, CALA had attempted to mitigate the impacts of construction traffic as much as possible.

He stressed that it was not in the best interest for CALA to cause problems as they had a reputation to maintain and he reminded Members that the site had the benefit of detailed planning permission.

Members asked why a swept path analysis was not undertaken by CALA with two HGVs meeting each other.

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Mr Trowbridge advised that they had undertaken analysis in respect of a bus and a crane passing each other at the bend, which they considered the worst case and most contentious scenario

A Member commented that the provision of a safe route as required by the Section 278 agreement would be expensive and queried whether CALA would reconsider the new road option, that they had deemed as not viable, if the conditions of the Section 278 agreement proved to be more expensive. He also queried whether works needed to the proposed route would involve removing trees.

Mr Trowbridge advised that, from discussion already held with Highways, they could get the route as proposed through a stage 1 and stage 2 safety audit through a Section 278 agreement and that they were happy that they could deliver that option. In respect of trees, he did not believe that removal of trees would be required.

Members asked whether CALA had undertaken discussions with the landowners regarding the new road option and if they had what had been the outcome,

Mr Wright advised that following the meeting held on 20 May they sent seven letters to landowners who had connecting or adjoining link to the boundary of their site. They had received one response and subsequently met and undertook site visits with that landowner, construction director and highways experts. At this point the constraints of this option were identified including overhead power lines and an agricultural tenant and the difficulties of constructing a road suitable for construction traffic. It became clear that this option was unviable.

The Chairman thanked Mr Wright and Mr Trowbridge for their presentation.

The Development and Conservation introduced Mark Youngman (Hertfordshire Highways) and Danielle Shadbolt (Opus International – Highway Consultants) who were available to answer any questions.

To ensure clarity, the Chairman asked that the contents of a Section 278 agreement be clarified.

The Highways Officer advised that a Section 278 agreement was a legal agreement under the Highways Act generally between the Highway Authority, the developer and the appropriate landowners. The agreement would include such matters as inspection fees, the agreed bond for costs that allowed the Highways Authority to finish work, if they were not completed and technically agreed drawings. The agreement would also include clauses that explained how safety audits would be undertaken before commencement of the work and at later stages including completion and gave authority to third parties to carry out work on the highway. It explained the method of booking road space and laid out the procedures and stages that would be in place in order to comply with the construction, design and management regulations.

Members queried who completed the works on the ground and whether, if the proposed work would change the character of the streets in the village, whether any public consultation regarding those proposals would be carried out.

The Highways Officer advised that, once the Section 278 agreement was in place it was up to the developer to tender for licensed contractors to undertake the work. In respect of consultation, if Highways were undertaking the works, then they would consult, depending on the nature of those works. Third party works go through the planning process and therefore there is not as much consultation.

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A Member expressed concern that, in light of the reduced requirement for public consultation regarding changing the nature of these village roads, the plans for those alterations should be seen by Members before making a decision regarding the construction route.

The Highways Officer advised that he would expect a third party contractor to advise people affected of the work they would be carrying out.

The Development and Conservation Manager drew attention to Paragraph 4.2.4 of the report which described the key elements of the construction management plan and advised that the public consultation of the highway works was through the planning process in relation to the discharge of the condition and this meeting contributed to the consultation element.

A Member asked for clarification regarding the concluded associated safety audit in that he understood that safety audits were completed before and after the works were carried out and questioned what happened if there was a problem

The Highways Officer advised that there was a staged safety audit process that included evaluating the technical drawing, undertaking a site visit, producing a list of comments for action or explanation. This process was not completed until the Highways Authority was satisfied with the design.

The Development and Conservation Manager advised that the safety audit was about auditing the mitigation measures. The recommendation was implicit that, if the Section 278 agreement were to fail then this condition would not be discharged.

The Committee was not being asked to discharge the condition, but to do so subject to the Section 278 Agreement.

Members questioned why a safety audit had not been completed on the entire route and whether a more thorough safety audit would be undertaken if the recommendations were approved.

The Highways Officer advised that they did not undertake safety audits until there was some surety regarding the scheme, therefore no work in this area would be undertaken at the pre-planning stage.

If the recommendations were approved then the Highways Authority would look not only at the passing places and road widening, but also the Y junction. The Highways Authority only road safety audited permanent changes to the highway and did not generally look at a complete route.

Members were concerned that they were being asked to make a decision having only had sight of indicative drawings, rather than detailed plans. They commented that this was an extremely important lane and that, as such, the details should be considered by this Committee.

The Highways Consultant advised that plans were usually indicative as the detail of the design was subject to a Section 278 Agreement, an agreement between the Highways Authority and the developer. It was at this point that surveys were undertaken in respect of services under the highway and other issues were considered.

The Chairman commented that all Planning Control Committee Members received training, a part of which was a planning aid provided by the Department of Communities and Local Government. This document stated that when considering a planning application only certain issues were to be taken into account, known as material planning considerations. One of the material planning considerations listed in that document was highways issues, traffic generation, vehicular access and highway safety.

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He reminded Members of the history of the site in that outline planning permission had been granted, which purely accepted the principal of development. When considering the detailed permission, Members considered the detail of all matters including transport and access matters. The roads surrounding the site were unsuitable for large construction vehicles on a regular pattern over a long period of time.

He queried whether Members could be certain that the Section 278 Agreement would make the proposed route totally safe and expressed doubt regarding this and noted that the suggested off-road solution had been researched by the developers and rejected.

Whilst he accepted the officer recommendation that a satisfactory Section 278 Agreement must be in place prior to commencement, he stated that he could not agree that existing routes could be adapted to provide a safe route with children walking to school, horses, cyclist and pedestrians using these small lanes, little more than farmers tracks that had, over the years been tarmacked.

Even with a time limit on the hours of operation, he advised that he was not convinced that safety would not be seriously compromised.

A Member queried whether, if the Committee refused to discharge the condition, reasons for refusal would be required.

The Development and Conservation Manager advised that it was very unusual for the Committee to be considering details in regard to a condition, however the same rules apply as that for planning applications. If Members were minded to refuse to discharge the condition, as with a planning Application, the applicant would have the right of appeal and Members needed to be able to substantiate their decision with evidence at an appeal.

Any decision to refuse had to be supported by clear reasons that could be evidenced and associated to Policies.

He suggested that, if any decision to refuse was on the grounds of highway safety, the Committee would have to provide evidence that the advice from the Highways Authority was unsafe.

A Member questioned whether any of the people involved in the decision could be held responsible for any accident or death on the proposed route if the recommendations were approved.

The Property and Planning Lawyer advised that she would have to research this issue and advise the Committee.

Members noted that the times of work applied on any day, but this should be amended for Saturdays, Sundays and holidays. They also noted that Phase 1 of the development could be underway before the Section 278 Agreement was in place.

The Development and Conservation Manager advised that the Construction Management Plan detailed site working hours. The delivery schedule was about highway safety and stated that you can't deliver to the site outside of the agreed hours. It was extremely unlikely that deliveries would be arranged at times when work was not taking place. Members could ask that the delivery hours be aligned with the working hours on site by amending Recommendation 1.

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The Development and Conservation Manager advised that Phase 1 was for 6 dwellings and the Construction Management Plan stated that Phase 1 works would take place whilst the Section 278 works were being undertaken. If a planning application for 6 dwellings was being considered it would be unlikely that the Committee would be imposing a construction management plan. The purpose of Phase 1 was to allow a small discreet development to take place before the road widening, with the rest of the development taking place after the highway works had been completed.

A Member drew attention to the Council's Corporate Plan, in particular the objective to provide an attractive and safe environment for our residents, the Local Plan which stated that the development must not adversely impact on the area, the development Plan for the application which required it to be safe and efficient and Paragraph 32 of the National Planning Policy Framework which stated that a development could be refused when residual cumulative impacts are severe regarding transport.

He felt that the requirement and conditions had not been met by this development and that there was a good case for refusal on the NPPF grounds.

The Chairman clarified that that planning permission had already been granted and therefore could not now be refused. This was consideration regarding the discharge of Condition 6.

He reminded Members that, if they were minded to approve the recommendation, it would be with the amendment that times of delivery be aligned with the times of working on the site.

He also reminded Member that they would not be discharging Condition 6, but discharging it, subject to a satisfactory Section 278 agreement with Hertfordshire County Council which would provide road widening and passing places and the associated safety audits.

A Member stated that he remained concerned about the safety and legal responsibility. He also expressed concern that deliveries would be difficult to timetable, due to possible delays on their journey which would result in the passing places becoming parking bays.

A Member was concerned about the professional advice given regarding the route through Holwell and stated that he did not believe that this was a safe route option.

It was proposed that the application be refused on the grounds of the effect on highway safety and that, if it were approved it would cause undue and unsafe conditions.

The Development and Conservation Manager understood that this was a difficult decision to make, however advised that, if the Committee refused permission on the grounds that the Committee considered the route to be unsafe and was not capable of being safe despite the recommendations, CALA could appeal and Members would be required to present their own technical evidence that could be tested at a public inquiry.

Members queried whether the details of the proposed Section 278 Agreement could be brought to this Committee to consider.

Members debated that consideration of the route to be taken to the site should have been considered at the time the planning application was approved and that the situation now was that the professional Highway engineers would have to give evidence in support of the route if this went to an appeal and that, although this was an unsatisfactory route, it would be difficult to show that it was unsafe. It was also noted that, if the Section 278 Agreement could not be agreed then the construction management plan would fail.

It was proposed and seconded that the Construction Management Plan be approved and the requirement of Condition 6 be discharged, subject to the conditions laid out in the report, subject to an amended Condition 1 that aligns delivery times with work times.

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A Member brought to the Committee's attention another application where the Committee refused an application against Highways advice and this was upheld at appeal.

Members noted that in planning law stated that the Highways Authority were the experts regarding the road network and, even if Members felt that this route was not safe, the expert opinion was against that. If this went to an appeal then Members would have to hire their own planning expert to argue the case against the Highways Authority.

Councillor Clark called for a recorded vote.

Proposal: that the Construction Management Plan be approved and the requirement of Condition 6 be discharged, subject to the conditions laid out in the report, subject to an amended Condition1 that aligns delivery times with work times.

For

Councillor John Booth
Councillor Bill Davidson
Councillor Tony Hunter
Councillor Ian Mantle
Councillor Michael Muir

Against

Councillor David Barnard
Councillor Paul Clark
Councillor Jean Green
Councillor Harry Spencer-Smith
Councillor Martin Stears-Handscorn

The Chairman's casting vote was against the proposal.

The Development and Conservation Manager advised that a decision not to approve was not a decision and the Committee now needed to decide on what basis they would consider the application and give reasons for that decision.

The Chairman suggested the following wording could be used "That the Committee resolve not to approve the construction management plan as it did not consider that there could be a satisfactory or safe construction route through Holwell, The Construction Management Plan therefore conflicts with the requirements of Policy T1 of the North Hertfordshire Submission Local Plan (2011-2031)." and asked for a proposer and seconder for his suggested wording.

It was proposed by Councillor Clark and seconded by Councillor Stears-Handscorn and upon the vote the proposal was agreed.

The Chairman asked that the Proposer and Secunder represent the Committee at any appeal.

RESOLVED: That, in respect of application **17/02023/1DOC** regarding the Construction Management Plan and discharge of the requirements of condition 6 of planning permission no. 16/01618/1, the Committee resolved **NOT TO APPROVE** the construction management plan as it did not consider that there could be a satisfactory or safe construction route through Holwell, The Construction Management Plan therefore conflicts with the requirements of Policy T1 of the North Hertfordshire Submission Local Plan (2011-2031).

64 17/02024/1DOC - LAND ADJACENT TO ELM TREE FARM, HAMBRIDGE WAY, PIRTON

Condition 6 - Construction Management Plan & 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 & Environment Ltd dated 4th August 2017 (as Discharge of Condition of Planning Permission 15/01618/1 granted 25/05/2016).

The Development and Conservation Manager advised that, due to the high volume of representations received since the report was finalised, he had sent Members a briefing note by email on 26 September 2017.

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All comments received were displayed on the Council's website and Members had been strongly advised to review these comments shortly before the meeting in order to have an up to date picture.

In order to assist Members, he had provided a very high level summary of new comments received as follows:

Environmental Health (Noise)

No objections.

CPRE Comments

Perhaps sites like this should not be granted permission or allocated in Local Plans as construction routes are impractical in rural areas. In this case any damage to verge and cutting has not been assessed properly.

Pirton Neighbourhood Plan Steering Group

This is longest of the two routes proposed so will affect the greatest number of people;
The route is used extensively by cyclists and pedestrians.

Pirton Parish Council

This is longest of the two routes proposed so will affect the greatest number of people;
The route is used extensively by cyclists and pedestrians;
Noise from the reversing vehicles etc;
Impact on dark skies from lighting;
The development project should be enclosed by hoarding at all times.

Holwell Parish Council

This route is unsafe, absurd and has not been properly safety audited and does not meet the criteria of the condition.

Additional Local Residents comments

The through route proposed will effect the most number of residents so should be rejected;
The Priors Hill / Shillington Road route will affect local wildlife, traffic will disturb them and this should be investigated;
Vehicles parking in Shillington Road

The Development and Conservation Manager presented the report, supported by a visual presentation consisting of plans, drawings and photographs of the site.

Parish Councillor Diane Burleigh, Pirton Parish Council, thanked the Chairman for the opportunity to address the Committee in objection to the application.

Parish Councillor Burleigh advised that the off road route mentioned by some people was not an option supported by Pirton Parish Council mainly due to safety issues on the Hitchin Road with the majority of the 50 plus personal injury accidents over the last 18 years had taken place on the Hitchin Road, including one fatality.

To take a route off Hitchin Road would be extremely unsafe as well as destroy some of the heritage verge, would require the destruction of two lots of hedges and the diversion of the Hambridge Way, all of which would damage wildlife.

Pirton Parish Council objected to the proposal to arrive through Pirton and depart though Holwell and supported the conclusions and recommendations in the report.

She stated that as you refused the earlier application for Holwell on safety grounds, then, as this route also went through Holwell, it should again be rejected on that ground alone, but wished to make the following comments:

Safety

1. The route was not safe.
There had been more than 50 personal injury accidents on the route, principally the B655 and Hitchin Road, including 2 fatalities on Hitchin Road since 1998.
There were no traffic calming measures on any roads to and within Pirton.
There was no Road Safety Audit for these dangerous stretches of road.
2. The route was used extensively by cyclists, pedestrians and horse riders for leisure purposes.
It was part of the Chilterns Cycleway and the Icknield Way Route.
The safety of the roads for these users would be undermined.
3. None of the five roads selected for the route had a pavement on both sides of the road, and three of the roads, did not have any pavement at all. therefore almost half of the route through Pirton had no pavement.
During school holidays children would be walking and cycling along these roads putting them at additional risk
Neither Waterman nor CALA dealt with the significant issue of pedestrian safety.
4. The reports were particularly poor regarding the issue of Holwell Road and safety for the terraced houses known as the 12 Apostles.
There was no pavement either side of Holwell Road. Pedestrian traffic is not mentioned.

Environment

1. The proposed route would involve the destruction of the Y junction at the northern end of Priors Hill, at a time when the NHDC recognised this type of junction as part of Pirton's architecture and setting in the landscape.
2. The junction of Shillington Road, High Street and West Lane was awkward and narrow.
There was very likely to be damage to the verges, particularly the verge outside of the area known as the Dial, which formed part of an ancient village green.
3. The designated Heritage Verge along the whole length of Hitchin Road Pirton was also a local wildlife site.
As a priority habitat, the area was protected from negative impacts of development by both the NPPF and the current and emerging North Herts Local Plan.
The Officers report dealt extensively with this issue.
4. The route along Priors Hill and Shillington Road passed a field which was home to badgers, a protected species.
Further work should be undertaken to investigate the best ways to mitigate the danger of disturbance to these animals, in order to be fully compliant with the NPPF and wildlife legislation.
6. In respect of air pollution in Hitchin she referred to the opinion of your Environmental Health Officer.

Impact on the Community

1. This proposed route would impact upon a large number of properties disturbing residents' amenity within Hitchin, Pirton and Holwell. It was a long distance from an A road, contrary to best practice and Herts County Council Policy.

It was extremely important that conditions should be attached in respect of:

1. Hoarding right round the site to prevent noise and dust.
2. Light to be kept to a minimum to protect the night scene in the village.

The Chairman thanked Parish Councillor Burleigh for her presentation.

Councillor Claire Strong thanked the Chairman for the opportunity to address the Committee as a Member Advocate objecting to the application

Councillor Strong informed the Committee that the roads in this area were not suitable for construction traffic.

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Construction traffic going through these villages on these roads only had to meet a bus, agricultural vehicle or refuse lorry to cause a major traffic problem.

The only area considered for mitigation had been the area around Waterloo Lane.

The people of Pirton were not keen to have large lorries going through the village, even in one direction.

If CALA were considering using this through route they would have to undertake even more work to make the route safe.

Any traffic going through either Holwell or Pirton would pass through Hitchin.

The Officer recommendation was for refusal and she urged Members to support the recommendation and if possible add to the reasons for refusal.

The Chairman invited Mr Philip Wright and Mr Andrew Trowbridge to address the Committee in support of the application but they refused the offer to do so.

It was proposed and seconded that permission to discharge the requirements of condition 6 of outline planning permission no 16/1618/1 be refused for the reasons set out in the report.

RESOLVED: That, in respect of application **17/02024/1DOC**, permission to discharge the requirements of condition 6 of outline planning permission no 16/1618/1 be **REFUSED** for the reasons set out in the report of the Development and Conservation Manager.

65 17/01024/1 - LAND BETWEEN A505 AND, YORK WAY, ROYSTON

Erection of 2 retail foodstores with ancillary cafe; provision of 170 associated car parking spaces; plant and service yards; provision of new road on junction of A505 and new link road to Orchard Road Industrial Estate; landscaping and all other associated works (as amended by plans received on 16 May 2017).

The Area Planning Officer advised that there were a number of updates and corrections since publication of the report as follows:

At the time of reporting, the unilateral undertaking which would deliver £100,000 for sustainable transport had been agreed with Herts County Council and was out for signature. This process should be complete in a few days.

Therefore the recommendation should be amended to read:

“That planning permission be granted subject to the following conditions and receipt of a satisfactory Unilateral Undertaking delivering £100,000 for sustainable transport provision”:

If the above recommendation was accepted and in the unlikely event that the unilateral undertaking process was not complete by the 1st November 2017 and if the applicant was not willing to extend the timetable for determination,, the Committee was asked to authorise refusal permission, under delegated powers, on the grounds that there was no satisfactory legal undertaking.

The following corrections to the report were advised:

The second sentence of Paragraph 4.2.1 should read:

“This represents an increase of about 700 sqm of additional sales floorspace over that already approved. The new stores are specified with 170 car parking spaces off of a new mini roundabout.”

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The fifth sentence of Paragraph 4.3.4 of the report should read:

“This scheme represents an increase on this approval of some 700 sqm.”

An additional Condition 16 was required to read:

“The travel plan submitted on behalf of Marks and Spencer PLC by Caneparo Associates and dated April 2017, shall be implemented and monitored in accordance with the action plan and timetable set out within the plan.

Reason: To promote sustainable patterns of travel and use as encouraged by the NPPF.”

The Area Planning Officer presented the report of the Development and Conservation Manager, supported by a visual presentation consisting of plans, drawings and photographs of the site.

Members asked for clarification regarding the placement of access and exit points to the site. They queried whether the £100,000 transport contribution would be used to provide the new road and access to the site, what action could be taken if the travel plan was unsuccessful and whether any hedgerows or trees would be lost during construction.

The Area Planning Officer advised that there was an exit from the new road and access and exit from the A505 westbound.

The contribution to sustainable transport would not be used to provide either the roundabout or the access, it would provide bus services to the facility.

Non compliance with the Travel Plan would be a breach of condition and would be enforceable as such

In respect of trees and hedgerows, some would need to be removed in order to provide the access onto the A505, although there was a condition that required a landscaping plan.

Members were supportive of the proposal and commented that the proposed stores were unlikely to have an effect on the town centre

It was proposed, seconded and

RESOLVED:

- (1) That planning application **17/01024/1** be **GRANTED**, subject to the conditions and reasons set out in the report of the Development and Conservation Manager and the additional Condition 16 below and subject to receipt of a satisfactory Unilateral Undertaking delivering £100,000 for sustainable transport provision.

Additional Condition 16 to read:

“The travel plan submitted on behalf of Marks and Spencer PLC by Caneparo Associates and dated April 2017 shall be implemented and monitored in accordance with the action plan and timetable set out within the plan.

Reason: To promote sustainable patterns of travel and use as encouraged by the NPPF.”

- (2) That, If the unilateral undertaking process is not complete by the 1 November 2017 and the applicant does not agree to extend the timetable beyond that date, the Development and Conservation Manager be requested to refuse permission under delegated authority with the reason for decision being that there is no satisfactory legal undertaking.

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The meeting closed at 9.54 pm

Chairman