

<b>ITEM NO:</b>	<u>Location:</u>	<b>Land Adjacent To Elm Tree Farm, Elm Tree Farm Close, Pirton</b>
<b>6</b>	<u>Applicant:</u>	<b>Cala Homes</b>
	<u>Proposal:</u>	<b>Construction Management Plan &amp; Traffic Management Plan - Condition 6 - Holwell route by CALA dated 2/11/17 Road Safety Appraisal by Mayer Brown dated 27th October 2017 (as Discharge of Condition of planning permission 15/01618/1 granted 25/05/2016)</b>
	<u>Ref. No:</u>	<b>17/02807/ 1DOC</b>
	<u>Officer:</u>	<b>Simon Ellis</b>

**Date of expiry of statutory period:** 28 December 2017

### **Reason for Delay**

N/A. The statutory expiry date for the determination of this application is 28 December 2018.

### **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 ended on 29 November 2017.

### **1.0 Relevant History**

- 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.
- 1.3 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.**
- 1.4 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.**
- 1.5 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).**
- 1.6 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.
- 1.7 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.
- 1.8 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.

- 1.9 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.
- 1.10 At that meeting Members resolved to defer a decision on application ref. 17/0335/1DOC:
- 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. 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 12 December 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 (12 December 2017) the local planning authority has until 26 December 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 14 December 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 31 October) it is essential that this application is determined at this Committee (i.e. 14 December) to avoid the deemed discharge risk from 28 December 2017.

1.26 **Updated Planning History**

At the Special Meeting of the Planning Control Committee held on 28 September 2017 Members resolved to refuse two separate Discharge of condition applications (ref. 17/02023/DOC and 17/02024/1DOC). Of these two applications the one that broadly matches the current application as it proposed a construction traffic route in from and out through Holwell (the subject of this report) was refused permission against officer recommendation for the following reason (ref. 17/02023/1):

**The Local Planning Authority does not consider that there could be a satisfactory or safe construction traffic route through Holwell. The proposed Construction Management Plan therefore conflicts with the requirements of Policy T1 of the North Hertfordshire District Submission Local Plan (2011-2031).**

1.27 The Council have been informed that the applicant has already lodged an appeal to the Planning Inspectorate (PINs) against this decision. However, at the time of writing PINs have not validated the appeal or given the Council a start date. Only when this happens can interested parties be informed of the appeal. Any updates on the appeal progress will be provided at the Committee meeting.

1.28 As well as the appeal the applicant has submitted two further applications to discharge the requirements of condition no. 6. This current application (the subject of this appeal) and an alternative CMP proposing the same construction traffic route but with more mitigation proposed (application ref. 17/02778/1DOC).

1.29 In relation to progress on the alternative application proposing a more detailed CMP the applicant has agreed to extend the determination period from the original date (26 December 2017) to 31 January 2018 to enable further discussion and negotiation with officer and Hertfordshire County Council (Highway Authority). By agreeing to extend the statutory determination period for the alternative application there is no risk of a deemed discharge application before the meeting of the January Planning Control Committee. However, given that discussions are on going I have decided not to report application no. 17/02778/1DOC to this meeting of the Planning Control Committee.

## **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):**

Recommend refusal of this discharge of condition application. Full text attached as **appendix 1**.

3.2 **Environmental Health (Noise):**

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

3.3 **Environmental Health (Air Quality):**

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

3.5 **Pirton Parish Council:**

Object to the application. **Full text attached as appendix 2**.

3.6 **Pirton Neighbourhood Plan Steering Group:**

The proposals deliberately withhold some of the mitigation features regarding road safety that have been a feature of previous applications. In short, in September 2017 an application to discharge Condition 6 was refused on safety grounds. This is a poorer application, relying for traffic management on the right for all types of traffic to use the roads. There being no change except for the worst as regards road safety, this application should be refused. We note, however, some improvements to the proposals regarding noise and dust pollution. We emphasise the need to keep security lighting to a minimum to preserve the dark night skies at this edge of the village.

3.7 **Holwell Parish Council:**

Nothing received at the time of writing. Any comments 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.

### **Holwell Against CALA Traffic (HACT):**

This local action group have commissioned a Road Safety Appraisal from a transport consultant. The supplementary policy statement is also included in these appendices. Members have also been sent these documents direct. **This report and associated assessment is attached in full as appendix 3.**

## **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 supporting documents; a Road Safety Appraisal prepared by Mayer Brown Consultants and a Construction Management and Traffic Plan (Holwell Route only) submitted by CALA Homes. The key proposals can be summarised as follows:

- \* Materials to be stored on site in compounds away from neighbouring properties;
- \* Car parking for staff and visitors on hard standing area within the site during construction;
- \* On site signage for access arrangements to site during construction;
- \* Construction traffic into site separate from pedestrian areas;
- \* Screening and hoarding of works on site;
- \* Control of dust and noise;
- \* Wheel washing facility when leaving site;
- \* Sweepers to remove any mud from roads;
- \* Security lighting on site;
- \* Roof trusses, steel beams and pre-cast slabs to be delivered by rigid vehicles wherever possible;

- \* Mobile crane to be hired for installation;
- \* Condition survey of construction route and after and damage repaired;
- \* One way system within site;
- \* Hours of work on site between 0800 and 1730 Monday to Friday 0800 to 1300 on Saturday and no Sunday or Bank Holiday working;
- \* Site deliveries between Monday and Friday 0930 to 1500

4.2.3 I have sought clarification from the applicant on point 9 in the mitigation section of the CMP. It is not clear whether this more basic CMP actually proposes to provide the passing places along Waterloo Road that were proposed in the earlier versions of the CMP detailed above under the Planning History section. I have therefore sought clarification of the meaning behind point 9 set out in the mitigation section which reads as follows:

**'Use of remote passing bays for vehicles to wait prior to proceeding to site (again to avoid conflicts between construction traffic and local bus service).'**

4.2.4 The applicant's consultants have clarified that this is not a reference to new passing places being provided along the route from the A600 to the site. They have confirmed the following:

**'The reference is to remote passing bays in point 9 of the mitigation section refers to the use of existing holding bays on the A1 and roads around the village which could be used for a vehicle to stop in for a short period of time to prevent a conflict on the route. The reference does not suggest that new passing bays would be installed.'**

4.2.5 On this basis and following clarification the CMP itself does not detail proposed passing places unlike the earlier CMP.

4.2.6 However, to add further confusion paragraph 1.1.2 of the CMP under the introduction reads as follows:

**'The Construction Management Plan and Traffic Management Plan should be read in conjunction with Waterman's Construction Route Plan - Arrival and Departure via Holwell (dated October 2017)'**

4.2.7 Appendix 1 to the Waterman document includes clear reference to the creation of new passing places along the construction route. However, it was not submitted as part of this application (it is however attached to application ref. 17/02778/1DOC).

4.2.8 I have therefore again sought clarification from the applicant on this point and they have confirmed that paragraph 1.1.2 should have been omitted from this CMP. They are clearly stating therefore that this proposed CMP would not provide the passing places that were set out in the earlier versions of the CMP.

4.2.9 The associated road safety appraisal therefore assesses the safety of the route without any mitigating passing places can be summarised as follows:

- \* Construction route visited by appraiser on 24 October 2017;
- \* Inspection carried out from 1100hrs onwards;
- \* Traffic conditions on A600 recorded as light to moderate;
- \* Refers to official collision records on the Holwell Road recorded over a three year period up to March 2017;
- \* Five collisions were recorded in this period leading to slight injury in all cases;
- \* Four of the five were recorded on the Bedford Road / Holwell Road junction;
- \* The collisions do not form a pattern to suggest any remedial works are necessary;
- \* Conclude that the proposed route is not likely to result in a 'material increase in risk to road users'.



### 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 Highway Safety Matters

As is reported above at the special meeting of the Planning Control Committee held on 28 September 2017 when the previous application for a CMP detailing this same construction route (application ref. 17/02023/1DOC) the Committee concluded in refusing the application that:

**The Local Planning Authority does not consider that there could be a satisfactory or safe construction traffic route through Holwell. The proposed Construction Management Plan therefore conflicts with the requirements of Policy T1 of the North Hertfordshire District Submission Local Plan (2011-2031).**

- 4.3.3 As a response to this conclusion as part of this slimmed down and more basic CMP the applicant has submitted a Road Safety Appraisal which concludes that the proposed route is not likely to result in a 'material increase in risk to road users'.
- 4.3.4 As also explained above the applicant has already lodged an appeal against this decision and should this appeal proceed it will be for Committee Members to provide evidence as to why they consider that the Holwell route cannot be safe.
- 4.3.5 In this instance the Highway Authority do find fault with the proposed CMP largely relating to the lack of clear mitigation and insufficient information. It is on this basis that I frame a recommendation of refusal set out below. Importantly however I must advise Members that the Highway Authority do not conclude that the proposed Holwell route is unsafe in principle and I cannot therefore recommend that Members repeat their earlier and quite fundamental reason for refusal.
- 4.3.6 However, paradoxically if Members were minded to refuse this application and did not repeat their earlier refusal reason (i.e. that the route is unsafe) it would undermine the validity of the earlier refusal and clearly weaken the Committee's case at the forthcoming appeal.
- 4.3.7 Having said that as always my recommendation is based on the advice I have received from the highway authority and goes no further as I am not qualified to make a judgement on the highway safety of proposed construction traffic routes.
- 4.3.8 As I have explained under the proposals section of this report, despite clear reference to the Waterman assessment in paragraph 1.1.2 of the CMP the applicant has not submitted the Waterman document as part of this application so on that basis this CMP has less physical mitigation than the previous CMP which Members refused at the meeting of the Planning Control Committee.

- 4.3.9 Should Members be minded to refuse permission for this slimmed down version of the CMP and should a further appeal be lodged I am not sure that an appeal Inspector would necessarily agree that this CMP does not propose the earlier passing places as the reference to the Waterman document set out in paragraph 1.1.2 is clear and unambiguous that it should be read in a conjunction with the Waterman document. I suspect an appeal Inspector may well want to review the Waterman document and consider its content.
- 4.3.10 When the Highway Authority commented on this application on 28 November they were also not clear whether the passing places were proposed. I have therefore sought further clarification from them. I have asked the Highway Authority to provide their opinion on whether the proposed construction route into and out of Holwell would be safe in their judgement without the passing places? The answer I have received is as follows:
- 4.3.11 **'The answer is not exactly black and white. The passing places have been proposed on the type of construction vehicles the applicant is seeking to use. The Highway Authority concerns relate to two larger vehicles being able to pass each other along the route and this is a concern of safety and operation, it was therefore requested that the applicant demonstrate that two vehicles can manoeuvre safely, which is when the proposed solution of passing places [was put forward]. The Highway Authority would not consider the route in itself to be unsafe as under normal operational conditions the information suggests that the network operates sufficiently. If the applicant decided to use transit vans for example they may not ultimately require passing places but this could cause other issues (please note that this has not been assessed and is an example only).'**
- 4.3.12 **Congestion and Living Conditions**  
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.
- 4.3.13 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.
- 4.3.14 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.
- 4.3.15 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.

4.3.16 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.

4.3.17 In terms of air quality at the time of writing I have not received comments from the Council's environmental protection officer. Any comments received will be updated.

#### 4.4 **Conclusion**

4.4.1 It is in my view disappointing that this application has been submitted as it proposes less mitigation than earlier versions of the CMP. I can fully understand the applicant's frustration that they are having enormous difficulty trying to secure an agreed CMP for this development scheme, to build much needed homes on a site that has planning permission. However, to propose a slimmed down CMP in full knowledge that it will be refused permission so as to present this to an appeal Inspector against the backdrop of earlier and more robust CMPs with clear mitigation is unfortunate in my view.

4.4.2 The applicant continues to work with Hertfordshire County Council (Highways) on the associated S278 agreement which includes details of all works to the highway associated with the wider development. As has been explained before this process is entirely outside the control and influence of the local planning authority. The S278 may contain the requisite passing places notwithstanding the content of the CMP. However, at this time the S278 agreement has not been completed and I can only judge the position at present. Therefore adopting a precautionary position within the recommended refusal reason set out below I include reference to passing places not being proposed.

4.4.3 Overall therefore this more basic CMP has a number of inadequacies according to Hertfordshire County Council (Highway Authority) and on that basis I can only recommend that Members refuse to discharge the requirements of condition 6 of outline planning permission no. 15/01618/1 for the reason set out below.

#### **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 the details submitted pursuant to condition no. 6 of planning permission no. 15/01618/1 be **REFUSED** for the following reason and that the requirements of condition 6 are not discharged:

1. The proposed Construction Management Plan (CMP) contains insufficient information in relation to the following matters:

\* The proposed CMP does not explicitly propose new passing places along the route although reference is made to the Waterman document which has not been submitted in paragraph 1.1.2. New passing places as shown on the Waterman document and as proposed in earlier versions of the CMP are required;

\* Insufficient clarity and monitoring on car sharing requirements for contractors (the earlier CMP stated *“Contractors will be encouraged to car share and arrive in multi-occupancy vans where possible. CALA will record the daily journey details of our staff, operatives and delivery vehicles to the site to ensure the above arrangements are promoted throughout the construction period.”* This version merely 'encourages' car sharing;

\* Reference to Holwell Road route being the only route for construction traffic is not clear and needs to be clarified;

\* The document does not refer to a strike system or a gateman to monitor the direction of vehicles. This is required within the CMP;

\* The document refers to using rigid vehicles 'where practically possible' - the wording of practically possible is not acceptable, the use of alternative vehicles would need to be agreed with HCC as highway authority;

\* Previous CMPS included the following statement *“if for any reason a larger vehicle is required to make a delivery it will only be done so with prior consent from HCC as the Highway Authority at least a week before the delivery date. This will include certain pieces of plant such as a 360 excavator. The residents on Holwell Road will be notified at 24 hours before arrival and if necessary, a temporary traffic management order will be sought.”* This is omitted from this CMP and HCC recommends this is re provided ;

\* Reference to allowing additional time in the booking system where rigid vehicles are not used has been omitted. HCC recommends that this is re provided;

\* The condition survey is to be undertaken along the entire construction route West Lane onto Holwell Road ending at Bedford Road - further information is requested as to inclusion of West Lane;

\* As part of the CMP the following statement has been omitted *“Site deliveries are to be in accordance with the set delivery hours as detailed in this document. Delivery drivers will be told to contact the site manager prior to arrival on site so that the delivery can be made efficiently and with minimal disruption to the local highways.”* HCC would recommend that this statement is re-provided to ensure that deliveries do not occur outside permitted hours.

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).