

**OVERVIEW AND SCRUTINY COMMITTEE
22 JANUARY 2019**

PUBLIC DOCUMENT

TITLE OF REPORT: APPROACH TO NEW DEVELOPMENTS

REPORT OF : DEVELOPMENT AND CONSERVATION MANAGER

EXECUTIVE MEMBER : Planning, Enterprise and Transport

COUNCIL PRIORITY : ATTRACTIVE AND THRIVING

1. EXECUTIVE SUMMARY

The purpose of this report is to advise Members of the actions that are being considered to address the issue of construction management. In particular the route which developers require their vehicles to enter and leave sites during construction. The two matters that are being pursued are firstly to continue to impose conditions where appropriate on planning permissions for major development sites to require developers to submit details of construction routes for approval by the local planning authority in consultation with Hertfordshire County Council (Highways). Secondly, to insert a new section in the revised Statement of Community Involvement (SCI) to advise developers for major development schemes to consider the issue of construction management and to engage with the wider community at the earliest possible stage in their development plans and preparations.

2. RECOMMENDATIONS

2.1 That Members endorse the actions recommended by the Development and Conservation Manager:

2.2 To seek to continue to impose conditions where appropriate on planning permission to seek to control Construction Management traffic routes;

2.3 To insert a new section of the forthcoming revision to the Council's Statement of Community Involvement (SCI) which advises developers of major development sites to consider the issue of construction management and to engage with the wider community at the earliest possible stage in their development plans and preparations.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To advise Members of the approach to be taken and seek their endorsement.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The alternative option considered was to seek to avoid requiring Construction Management traffic routes in association with major new developments on the basis that such requirements are difficult to enforce by condition. It is a generally accepted aspect of planning legislation that a condition of a planning permission can only seek to control the use of land or development on land owned and controlled by the applicant or land within the red line of the planning application. To control the route by which vehicles enter and leave the site associated with construction is at odds with this general principle in the sense that use of the wider highway network is by definition outside the application site and therefore beyond the applicants control.
- 4.2 However, following advice from Hertfordshire County Council (Highways) and discussion with other Hertfordshire Local Planning Authorities I consider that such conditions are enforceable in the sense that the purpose of a construction management route is to seek to control traffic routes for vehicles that are related to the construction of a development and therefore vehicles which must be within the control of the developer. In this sense the use of conditions for this purpose is reasonable and appropriate in my view.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 In the preparation of this report the matter was discussed with Hertfordshire County Council (Highways) and other District and Borough Council's within Hertfordshire.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 This report has been prepared in response to a question posed by Cllr Martin Stears-Hanscomb on 20 March 2018:

'Noting the inconvenience caused to residents and damage caused to public space by the construction traffic servicing the development of Lucas Lane, Hitchin and the potential increased use of unsuitable and sometimes dangerous routes to development sites in the District, which will increase following the adoption of the Local Plan, will the Scrutiny Committee investigate whether an approach to new developments which identifies access problems at an early stage is possible?'

An answer has been requested from the Executive Member for Planning, Enterprise and Transport.

8. RELEVANT CONSIDERATIONS

- 8.1 With significant new development proposed within the North Hertfordshire District Local Plan (2011-2031) and in association with developments that are already being constructed such as Lucas Lane, Hitchin and Elm Tree Farm, Pirton the issue of the route by which construction traffic enters and leaves the site has become of significant public concern. In the case of Elm Tree Farm, Pirton, the very issue of which route can be permitted was the subject of a planning appeal. In light of this concern I have sought from Hertfordshire County Council (Highways) and other local planning authorities in Hertfordshire and reflecting on recent experiences and decisions of the Council's Planning Control Committee.
- 8.2 The advice from Hertfordshire County Council (Highways) in relation to this matter is that they consider that appropriately worded conditions on any planning permission should be imposed which seek to require developers to manage construction activity on site and for vehicles associated with construction projects to use the most appropriate and safe construction route on the public highway that is available for that project. They are not of the view that planning permission can ever be refused permission on the basis that there is not an appropriate and safe construction management route. They are also of the view that to require a developer to construct new roads for the purposes of construction outside land that is under their control would ever be appropriate either.
- 8.3 The type of issues that Hertfordshire County Council (Highways) consider can be reasonably be controlled through such conditions are as follows: To secure sight lines, access works, on-site highway works (in connection with traffic calming for example), provision of wheel cleaning equipment at access/egress points on the site, to apply time limits on HGV access to a site (e.g. for example where HGV movements at unsocial hours would cause unacceptable noise/vibration disturbance to residents), to impose prohibitions on the use of certain access to the site for certain types of traffic (e.g. in connection with lorry routing).

- 8.4 Given this advice and despite the findings of the appeal Inspector in relation to the Elm Tree Farm, Pirton scheme, where he concluded that the specific condition imposed on that planning permission was not enforceable, I am of the view that if the wording of such conditions are improved and made more enforceable it would be reasonable to impose conditions that seek to control construction management routes for major development projects. It is therefore my intention to continue to ensure that such conditions are imposed where they are appropriate and if requested by Hertfordshire County Council (Highways).
- 8.5 In relation to the issue of considering these matters at the earliest possible stage, I am of the view that it would be unreasonable to refuse planning permission on the basis that the site cannot be safely accessed by construction vehicles. Planning permission cannot be granted for development unless there is a connection with the public highway. The ability of vehicles to access a site is of fundamental importance and applicants must always demonstrate a connection between a development site and the public highway. As a consequence new development can only be carried out where construction vehicles can access the site. Whether the surrounding highway network is safe and convenient is therefore considered upon the grant of planning permission and the purpose of construction management routes can only be to mitigate any traffic impacts not to prevent development going ahead. On this basis I do not consider that the issue of safe construction routes can ever be a reason for refusal of planning permission.
- 8.6 For the major development sites identified in the North Hertfordshire District Local Plan (2011-2031) and to encourage early engagement with the local community on the issue of construction management, the Council's Strategic Planning Manager has confirmed that as part of the forthcoming review of the Statement of Community Involvement (SCI), a new section of the SCI will be inserted to address this issue. The purpose will be to guide developers to consider the matter of construction management at the earliest possible stage in planning for major new development and to reflect this in their communication and consultation with the local community and ward Members. Such good practice would at least assist in managing expectations and demonstrate that developers are taking this important aspect of construction seriously. The revised SCI will be prepared and adopted by the Council later in 2019.
- 8.7 Whilst the SCI seeks to encourage best practice, its requirements are not mandatory. In essence therefore the detailed issue of construction management will remain at best part of a condition of planning permission rather than an issue that can be used to refuse planning permission or indeed guide the location and scale of new development schemes.

9. LEGAL IMPLICATIONS

- 9.1 The legal implications of this report relate to the on-going implementation of planning legislation.

10. FINANCIAL IMPLICATIONS

10.1 None.

11. RISK IMPLICATIONS

11.1 Any risks associated with this matter relate to the Council's role acting as local planning authority, in the form of potential appeal costs or legal challenges against planning decision.

12. EQUALITIES IMPLICATIONS

12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.2 No equalities implications.

13. SOCIAL VALUE IMPLICATIONS

13.1 The Social Value Act and "go local" policy do not apply to this report.

14. HUMAN RESOURCE IMPLICATIONS

14.1 No human resource implications.

15. APPENDICES

15.1 None

16. CONTACT OFFICERS

16.1 Simon Ellis, Development and Conservation Manager
simon.ellis@north-herts.gov.uk tel. 01462 474264

17. BACKGROUND PAPERS

17.1 None