

Report to District Development Management Committee

Date of Meeting: 20th April 2022

Site Address: 100 Brooker Road, Waltham Abbey, EN9 1JH

Application Number:	EPF/2211/21
Proposal:	Resurfacing of application site to be used for parking by Sainsbury's Waltham Point workers during the construction of a new multi storey car park. Once complete the site will be used for parking of HGV trailers.
Site Address:	100 Brooker Road, Waltham Abbey, EN9 1JH
Parish/Town:	Waltham Abbey
Conservation Area:	No
EFDLP Site Allocation	Yes WAL.E4
Epping Forest Special Area of Conservation	No adverse effects subject to conditions and legal agreement to ensure HGVs cannot route through the forest.

Applicant:	Sainsburys Supermarkets Plc
Agent:	Emily Taylor, WSP
Case officer:	James Rogers
Reason for reporting application to Members:	Linked application to a new multi storey car park on Waltham Point

1. RECOMMENDATION

- 1.1 That planning permission be granted subject to a s106 legal agreement and conditions.

2. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- 2.1 The proposal will facilitate the delivery of up to 350 new employment opportunities on an existing and well-established nearby distribution centre which is operated by Sainsbury's Supermarkets.
- 2.2 The application site is proposed for allocation in the LPSV for employment uses and seeks to provide temporary parking for existing staff at the nearby distribution centre for approximately 10 months, whilst new parking areas are delivered to facilitate an increase in staff.
- 2.3 The analysis contained within this report has demonstrated that there are no conflicts with the Development Plan or the LPSV and as such the proposal is recommended for approval, subject to a legal agreement and conditions.

3. HEADS OF TERMS AND PLANNING CONDITIONS

3.1 Proposed Heads of Terms:

- HGVs associated with the storage of the HGV trailers to be stored on the site must not use any route within 200m of the Epping Forest Special Area of Conservation.
- Upon first operation of the multi storey car park approved under planning reference EPF/2103/21 on the Waltham Point Distribution Centre, the use of 100 Brooker Road for the parking of vehicles shall cease.

3.2 Planning conditions proposed:

- 3.3 *The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.*

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

- 3.4 *The development hereby permitted shall be carried out in accordance with the details shown on the approved plans listed below:*

DR-A-9011 P03 Brooker Rd Location Plan; DR-A-9008 P03 Brooker Rd Existing Site Plan; DR-A-9009 P04 Brooker Rd Temp Proposed Site Plan; and DR-A-9010 P05 Brooker Rd Proposed Site Plan.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

- 3.5 *No development shall take place, including any ground works or demolition until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for the following all clear of the highway:*

- *Safe access into the site*
- *The parking of vehicles and site operatives and visitors*
- *Loading and unloading of plant and materials*
- *Storage of plant and materials used in constructing the development*
- *Wheel washing and underbody washing facilities*

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

- 3.6 *Prior to the first occupation of the development the vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be retained in perpetuity for their intended purpose.*

Reason: to ensure that appropriate parking and turning for vehicles is provided.

- 3.7 *Prior to preliminary ground works taking place, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details, and shall be provided on site prior to the first occupation and shall be retained for the lifetime of the development.*

Reason: To ensure satisfactory provision and disposal of surface water in the interests of Land Drainage.

- 3.8 *The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site. Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the local planning authority contacted and a scheme to investigate the risks and/or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the local planning authority prior to the recommencement of development works. In such instances, following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.*

Reason: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be

carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

4. PROPOSED DEVELOPMENT

- 4.1 The proposal is to resurface the existing site and to use it for the parking of up to 203 vehicles for staff members at the Waltham Point depot ("Waltham Point") on a temporary basis whilst a new multi storey car park is built on the site. After construction is complete, the site will be used for the storage of HGV trailers.

5. SITE AND SURROUNDINGS

- 5.1 The application site is located on the Brooker Road industrial estate on the southern edge of Waltham Abbey and just to the north of the M25 motorway. The site is approximately 0.5ha in size, is currently cleared of all structures and is covered in hardstanding. The site was previously used for the storage of scaffolding, but this use has since ceased and the site is currently vacant.
- 5.2 The surrounding area contains a number of industrial style buildings, palisade fencing, significant areas of car parking and has the character and appearance of an industrial estate with a mix of different employment uses.

6. RELEVANT PLANNING HISTORY

- 6.1 None relevant

7. CONSULTATION AND REPRESENTATIONS

- 7.1 40 neighbours were consulted by letter and site notices were displayed: No comments received
- 7.2 WALTHAM ABBEY TOWN COUNCIL – NO OBJECTION and commented:
- 7.3 Subject to comments being met regarding drainage concerns and that as well as having electrical points added to the carpark. The committee suggested an electric shuttle service for employees.

8. DEVELOPMENT PLAN

- 8.1 Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in dealing with any planning application the authority shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material planning considerations.
- 8.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise

8.3 The Development Plan currently comprises the saved policies of the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006) (ALP). The list below indicates which policies of the ALP are relevant to the determination of this application and the degree to which officers consider that they are consistent with the NPPF as noted in the report to the Local Plan Cabinet Committee (25th March 2013):

CP1 – Achieving Sustainable Development Objectives – Compliant

CP2 – Protecting the Quality of the Rural and Built Environment – Compliant

CP3 – New Development – Compliant

CP4 – Energy Conservation – Compliant

CP5 – Sustainable Building – Compliant

CP 6 – Achieving Sustainable Urban Development Patterns – Compliant

CP 7 – Urban Form and Quality – Compliant

CP 8 – Sustainable Urban Economic Development – Compliant

CP 9 – Sustainable Transport – Compliant

GB2A – Development in the Green Belt – Generally Compliant

GB7A – Conspicuous Development – Compliant

HC1 – Scheduled Ancient Monuments and Other Archaeological Sites – Partially Compliant

RP3 – Water Quality – Compliant

RP4 – Contaminated Land – Compliant

RP5A – Adverse Environmental Impacts – Compliant

U3B – Sustainable Drainage Systems – Compliant

DBE1 – Design of New Buildings – Compliant

DBE2 – Effect on Neighbouring Properties – Compliant

DBE3 – Design in Urban Areas - Compliant

DBE4 – Design in the Green Belt – Compliant

DBE9 – Loss of Amenity – Compliant

LL1 – Rural Landscape – Compliant

LL2 – Inappropriate Rural Development – Compliant

LL10 – Adequacy of Provision for Landscape Retention – Compliant

LL11 – Landscaping Schemes – Compliant

ST1 – Location of Development – Compliant

ST2 – Accessibility of Development – Compliant

ST4 – Road Safety – Compliant

- 8.4 The relevance of the identified saved Local Plan policies to the determination of this application and the weight to be accorded to each policy are addressed in further detail within Section 12 of this report.

The National Planning Policy Framework (July 2021):

- 8.5 The revised NPPF is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either;

(a) approving development proposals that accord with an up-to-date development plan without delay; or

(b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

- 8.6 The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

Epping Forest District Local Plan (Submission Version) 2017:

- 8.7 On 14 December 2017, the Council resolved to approve the Epping Forest District Local Plan (2011-2033) – Submission Version ("LPSV") for submission to the Secretary of State and the Council also resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.
- 8.8 The Council submitted the LPSV for independent examination on 21 September 2018. The Inspector appointed to examine the LPSV ("the Local Plan Inspector") held examination hearings between 12 February and 11 June 2019. As part of the

examination process, the Council has asked the Local Plan inspector to recommend modifications of the LPSV to enable its adoption.

- 8.9 During the examination hearings, a number of proposed Main Modifications of the LPSV were 'agreed' with the Inspector on the basis that they would be subject to public consultation in due course. Following completion of the hearings, in a letter dated 2 August 2019, the Inspector provided the Council with advice on the soundness and legal compliance of the LPSV ("the Inspector's Advice"). In that letter, the Inspector concluded that, at this stage, further Main Modifications (MMs) of the emerging Local Plan are required to enable its adoption and that, in some cases, additional work will need to be done by the Council to establish the precise form of the MMs.
- 8.10 Although the LPSV does not yet form part of the statutory development plan, when determining planning applications, the Council must have regard to the LPSV as material to the application under consideration. In accordance with paragraph 48 of the Framework, the LPAs "may give weight to relevant policies in emerging plans according to:
- a) The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).*
- 8.11 Footnote 22 to paragraph 48 of the NPPF explains that where an emerging Local Plan is being examined under the transitional arrangements (set out in paragraph 214), as is the case for the LPSV, consistency should be tested against the previous version of the Framework published in March 2012.
- 8.12 As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional MMs, significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework.
- 8.13 The following policies in the LPSV are considered to be of relevance to the determination of this application, with the advanced stage of the LPSV, all policies should be afforded significant weight:

No.	POLICY
SP1	Presumption in favour of sustainable development
SP2	Spatial Development Strategy
SP3	Place Shaping
E1	Employment sites
P3	Waltham Abbey Place policy
SP7	The Natural Environment, landscape character and green infrastructure
T1	Sustainable transport choices

T2	Safeguarding of routes and facilities
DM1	Habitat protection and improving biodiversity
DM2	Epping Forest SAC and Lee Valley SPA
DM3	Landscape Character, Ancient Landscapes and Geodiversity
DM5	Green and Blue Infrastructure
DM9	High Quality Design
DM15	Managing and reducing flood risk
DM16	Sustainable Drainage Systems
DM17	Protecting and enhancing watercourses and flood defences
DM18	On site management of waste water and water supply
DM19	Sustainable water use
DM20	Low carbon and renewal energy
DM21	Local environmental impacts, pollution and land contamination
DM22	Air quality

9. PLANNING CONSIDERATIONS

Principle

- 9.1 The application site is proposed for allocation in the LPSV for employment purposes (WAL.E4), although it is rather better to describe it as a designated employment site since it is located within an established industrial estate, although the site itself is currently vacant.
- 9.2 The NPPF encourages the effective and efficient use of previously developed land for suitable purposes and Policy E 1 of the LPSV strongly encourages the redevelopment or extension of existing employment sites around the District. Providing that a proposal facilitates the delivery of new or retention of existing employment, then the principle of the development, as far as the proposed allocation is concerned is established.
- 9.3 In this case, the proposal on this site is closely linked to a planning application lodged on nearby Waltham Point distribution centre (“Waltham Point”) under reference EPF/2103/21. Waltham Point is an existing and well-established distribution centre which is operated by Sainsbury’s Supermarkets. Sainsbury’s are seeking to move away from their reliance on a mechanised packing system on Waltham Point and are turning towards an expanded workforce for their operations.
- 9.4 To facilitate this expanded workforce, it is necessary to provide additional staff and HGV parking on the site in order to attract the necessary employees. Both applications are before Members because if the additional parking is approved at Waltham Point in accordance with the Officer recommendation, then it will be necessary to provide alternative parking for existing staff members during the construction of the parking, which is estimated to take around 10 months to complete.
- 9.5 The LPSV seeks to support the expansion and intensification of existing employment sites within the District to provide more job opportunities for local residents. The delivery of the alternative parking on Brooker Road will facilitate the construction of the new parking on Waltham Point to deliver up to 350 new jobs and therefore it has the

effect of delivering more job opportunities within Waltham Abbey on an existing and well established local employer. As such the proposal is compliant with the proposed employment allocation as noted within the LPSV.

- 9.6 Once the construction of the new parking has been completed on Waltham Point, the site will be used for the storage of up to 26 HGV trailers. Similarly to the above, the use of the site for such purposes will facilitate the expanded operations on Waltham Point and therefore complies with the proposed allocation of the site. It is also worth noting that the existing site is currently vacant and was last in use as a storage area for scaffolding, which would deliver a high yield of employment numbers.

Highway and access

- 9.7 The site will utilise the existing access from Brooker Road, which is well used for industrial purposes and can facilitate the volume and nature of the proposed use. Indeed, Essex County Council (“ECC”) have commented that the proposal will not cause any harm to the safety, capacity or efficiency of the local highway network.
- 9.8 Their position is taken subject to the imposition of two conditions requiring a Construction Management Plan to be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the site which requires details of:
- Safe access into the site
 - The parking of vehicles and site operatives and visitors
 - Loading and unloading of plant and materials
 - Storage of plant and materials used in constructing the development
 - Wheel washing and underbody washing facilities
- 9.9 The second condition is a requirement to provide the hard surfaced, sealed and marked out parking and turning areas as indicated on the approved plans. These conditions are reasonable and necessary to impose and will ensure no adverse impacts on the local highway network.
- 9.10 National Highways (“NH”) are responsible for the safe and efficient function of the M25 motorway, located within close proximity to the site. After consideration, NH have concluded that the proposal will not have an adverse impact on the M25.

Design and appearance

- 9.11 The site is located within an industrial estate which contains utilitarian style buildings, palisade fencing, swathes of hardstanding and significant areas of car parking. The site itself is currently vacant but covered in hardstanding. The proposal will initially be used for the parking of staff vehicles, which would not appear discordant with the prevailing character of the estate given that there are many examples of car parking in the viewable street scene. Upon cessation of the use of the site for the parking of staff

vehicles, it will be used to store HGV trailers. Considering the already industrial character of the area, this will not cause further harm to the appearance of the area.

- 9.12 The proposal therefore preserves the appearance of the existing area and is therefore compliant with the design policies of the LPSV.

Ecology

- 9.13 An ecological assessment has been prepared by the applicant which demonstrates that there are no significant habitats on the site and consequently the development will have a negligible impact.

Land Contamination

- 9.14 The Council's contaminated Land Team have considered the application and have commented that the site was once used as a former landfill and sewage works, however due to the nature of the proposed use the potential risks can be managed through the use of a planning condition.

Land Drainage

- 9.15 The applicant proposes to dispose of surface water by main sewer and new development should take opportunities to further reduce the runoff and improve on water quality entering into main sewers. The Council's Land Drainage Team have commented that this can be achieved, but further details are required and these can be secured through the use of planning conditions.

Impact on the Epping Forest SAC

- 9.16 Biodiversity features within, or associated with, a Special Area of Conservation are given the highest level of protection under UK law, and national planning policy in England. The provisions of the EU Habitats Directive are given effect in UK law by the Conservation of Habitats and Species Regulations 2017, as amended ("the Habitats Regulations").
- 9.17 Under the Habitats Regulations, the Epping Forest SAC is classified as a 'European Site' and, as such, any plans and projects (including applications for planning permission) that are likely, either alone or in combination with other plans or projects, to have a significant effect on the SAC must be subject to an assessment, known as an Appropriate Assessment ("AA"). The purpose of an AA is to ascertain whether any plan or proposal, either alone or in combination, will have an adverse effect the integrity of the European Site.
- 9.18 The Council has a legal duty as the 'competent authority' under the Habitats Regulations to protect the Epping Forest SAC from the effects of development (both individually and in combination) having regard to the representations of Natural England (NE).
- 9.19 Two specific issues relating to new development within the District have been identified as being likely to have a significant effect on the integrity of the Epping Forest SAC.

Firstly, as a result of increased levels of visitors using the Epping Forest SAC for recreation arising from new development (referred to as "recreational pressure"). Secondly, damage to the health of the protected habitats and species of flora within the Forest from atmospheric pollution generated by motor vehicles (referred to as "air quality").

- 9.20 Policies DM 2 and DM 22 of the LPSV provide the policy context for dealing with the effect of development on the integrity of the Epping Forest SAC outlined above.
- 9.21 The LPSV was supported by a Habitats Regulations Assessment 2021 ("the HRA 2021"). Two specific 'pathways of impact' relating to new development within the District were identified as being likely to have a significant effect on the integrity of the Epping Forest SAC. Firstly, an 'urbanisation' pathway of impact primarily as a result of increased levels of visitors using the Epping Forest SAC for recreation arising from new residential development (referred to as "recreational pressure"). Secondly, damage to the health of the protected habitats and species of flora within the Epping Forest SAC from an atmospheric pollution 'pathway of impact' (referred to as "air quality") caused primarily by motor vehicles using roads within 200m of it.
- 9.22 The HRA 2021 undertook an Appropriate Assessment of the planned development proposed within the LPSV, including the effect of that development on the Epping Forest SAC. The HRA 2021 concluded that, subject to securing urbanisation/recreational pressure and air quality mitigation measures the adoption of the Local Plan will have no adverse effect on the Epping Forest SAC.

Recreational Pressure

- 9.23 With regards to recreational pressure, any adverse effect on the integrity of the Epping Forest SAC only arises from new residential development. Consequently, the application can be screened out as having no adverse effect on the integrity of the Epping Forest SAC in relation to the recreational pressures 'pathway of impact'.

Atmospheric Pollution

- 9.24 As noted previously, this application is closely linked with the Waltham Point application. It is proposed that the Brooker Road site is initially used for the parking of existing staff members whilst the new multi storey car park is being constructed. Since these are existing staff members, displaced from an already extant use, there will be no additional AADT within 200m of the EFSAC.
- 9.25 It is however important that once the new parking has been delivered on the Waltham Point site, the use of this site as a staff car park must cease to prevent additional unsolicited trips through the boundaries of the EFSAC. This is part of the description of the proposal and can be secured through the S106 legal agreement.
- 9.26 Turning to the proposed storage of HGV trailers which will be kept on site upon completion of the multi storey car park on Waltham Point, HGVs have the potential to have significant adverse impacts in relation air quality if they utilise routes within 200m of the EFSAC. The main distribution centre at Waltham Point is already the subject of

HGV routing restrictions secured by legal agreement to prevent them from using such routes. It is reasonable and necessary to ensure that the HGV trailers on the Brooker Road site are also the subject of such restrictions and as such a legal agreement is required to ensure that this is the case.

- 9.27 Subject to an appropriately worded legal agreement as noted above, the Council as the competent authority can conclude that there will not be an adverse effect on the special interest features of the EFSAC. The proposal is therefore compliant with policies DM 2 and DM 22 of the emerging Local Plan, with the NPPF 2021 and with the requirements of the Habitat Regulations 2017.

10. EQUALITY DUTIES AND HUMAN RIGHTS

- 10.1 Section 149 of the Equality Act 2010 requires that a public authority must exercise its functions having due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic (age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation) and persons who do not share it, and foster good relations between persons who share a relevant protected characteristic and persons who do not.
- 10.2 In making this recommendation, due regard has been given to this Public Sector Equality Duty and the relevant protected characteristics. It is considered that there will be no specific implications and that, if approving or refusing this proposal, the Council will be acting in compliance with its duties.
- 10.3 The Human Rights Act 1998 makes it unlawful for a public authority to act in a way which is incompatible with any of the Convention rights protected by the Act unless it could not have acted otherwise. Careful consideration has been given to the rights set out in the European Convention on Human Rights, in particular Article 6 (right to a fair trial); Article 8 (right to respect for private and family life; Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (right to peaceful enjoyment of possessions).
- 10.4 The Council is of the opinion that the recommendation does not interfere with any such rights except insofar as is necessary to protect the rights and freedoms of others. The Council is permitted to control the use of property in accordance with the public interest and the recommendation is considered a proportionate response to the submitted application based upon the considerations set out in this report.

11. THE PLANNING BALANCE AND CONCLUSION

- 11.1 The proposed use of this site for the temporary parking of staff vehicles in connection with the Waltham Point site is compliant with its proposed allocation in the LPSV since it will facilitate the delivery of up to 350 new jobs in the local area. This will provide new job opportunities and investment in the local area, thereby bringing substantial benefits to the community.

- 11.2 No conflicts with the Development Plan, or the LPSV have been identified through this report and as such it is recommended that planning permission is granted subject to a s106 legal agreement and conditions.

Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:

Planning Application Case Officer: James Rogers

Direct Line Telephone Number: 01992 564 371

Or if no direct contact can be made please email:
contactplanning@eppingforestdc.gov.uk