

Report to District Development Control Committee



**Epping Forest
District Council**

Date of meeting: 26 June 2013

Subject: Sainsbury's Debden store, Torrington Drive, Loughton - Variation of Section 106 Legal Agreement to planning permission EPF/0620/00 in respect of HGV delivery vehicles movement routing restrictions

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Committee Secretary: S Hill Ext 4249**

Recommendation(s):

(1) That the Director of Planning and Economic Development/Director of Corporate Support Services be authorised to enter into a variation to the Section 106 Legal Agreement relating to Planning Permission EPF/0620/00 (for the regional distribution centre on Land at Sewardstone Road) to allow daily return HGV movements from the Waltham Point Distribution Centre to Sainsbury's Debden Store at Torrington Road, Loughton, and;

(2) That, to facilitate this change, a new clause 8.3 be inserted into the Section 106 agreement referred to in (1) above as follows:

"8.3 The Routing Restrictions Scheme, the Excluded Routes and the obligations in clause 8 (except for clause 8.1A) will not apply to any HGV movements to or from the Site in connection with the Sainsbury's store located at Torrington Drive, Debden."

Report Detail

Planning History

1. (Director of Planning and Economic Development) Planning permission was granted on 7 February 2001 for a regional distribution facility with ancillary offices and associated car parking on land at Sewardstone Road, Waltham Abbey (planning reference: EPF/620/00). It was built shortly afterwards and is a regional distribution centre for Sainsbury's that now delivers to 89 Sainsbury's stores across London and the South East.

2. The planning permission was subject to a Section 106 Agreement, one clause of which sets out the routing restrictions for HGV movements associated with the Waltham Point depot, which in essence states that any HGV movements travelling to and from Waltham point cannot travel along a number of identified "Excluded Routes". Specifically, the excluded route is defined in the S106 agreement as:

Excluded Routes: means Highbridge Street, Station Road, Eleanor Cross,

Sewardstone Road, Abbey View, Crooked Mile, Farmhill Road and Honey Lane as shown and identified on the key to Plan 2 as “Excluded Routes” with the objective that the only route to be used along the new link road (A121) shall be to junction 26 of the M25 shown coloured red.

3. Members at the time the planning permission was approved were concerned about vehicles travelling along the roads through Epping Forest and its potential impact upon the Forest, which is designated as a Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). Hence, this clause in the legal agreement.

Need for the Variation

4. Delivery vehicles to and from the Debden Sainsbury's store at Torrington Drive are servicing the store from a longer route off Chigwell Lane (A1168) from the M11 (northbound) via the A12/A406 roundabout, M11 southbound via the M25 junction 26 off the link road from the depot. Whilst the distance from the depot to the Debden store and back is 18km, the roundtrip each time is covering a distance of about 61km.

5. The Debden store currently receives a maximum of 4 deliveries per day (4 inbound and 4 outbound trips) and because of the narrow servicing lane at the store off Barrington Green, it is served by a 10m rigid HGV rather than the standard 16.5 articulated HGV used at other Sainsbury's stores, including the Loughton Station Road store.

6. Sainsbury's ability to use the servicing area would also be affected should the off-site highway works in Chigwell Lane and Barrington Green associated with the recent planning permission for the redevelopment of the Council Depot site and adjacent land at Langston Road (T11 site) to a new retail park, go ahead (EPF/2580/10 - granted 19 July 2012). This is because part of the planning permission requires that off-street highway works in Chigwell Lane, the Broadway and Barrington Green are undertaken before the retail park development is occupied. The works if undertaken would restrict the ability for Sainsbury's to service its Debden store in accordance with the routing restriction imposed on them by planning permission EPF/0620/00.

7. In particular, one of the highway works, the closure of the access from The Broadway onto Barrington Green, and the creation of a gap on the southbound lane on Chigwell Lane, restricts the designated route that Sainsbury's delivery vehicles can follow. As delivery vehicles cannot come from the north, they would need to u-turn at the Chigwell Lane/Broadway junction.

8. Furthermore, the proposed works do not accommodate 10m rigid vehicles which serve the Debden Store. Sainsbury's are therefore deeply concerned that this will have an adverse effect on its servicing and be unable to service its Debden store whilst remaining in compliance with its Section 106 routing restriction.

Options Considered

- Amend the off site highway works proposed as part of the Langston Road proposals. The highway consultants acting on behalf of the applicant for the

retail park did show how revising the new gap in the kerb to the servicing area into Barrington Green could be incorporated into the proposed highway works, for delivery vehicles entering from the south, but it was felt that this part of Barrington Green in front of the delivery area of the store would result in head on conflict with vehicles leaving the petrol filling station on the adjacent site. Reversing the flow of traffic to the proposed one-way system in Barrington Green would also result in this conflict.

- Re-routing Sainsbury's vehicles through a residential area. This though would introduce vehicle movement, despite its low frequency, into rather tight residential roads where on street parking is heavy, given its close proximity to Debden tube station. It would also add further to the delivery time and distance.

- Amend the Waltham Point Section 106 Agreement to allow delivery vehicles to use the A121. This is Sainsbury's chosen option which has less impact and more feasibility whilst benefiting from a shorter and more direct route.

9. Despite the Debden store being consulted during the planning application for the proposed retail park at Langston Road, and after the planning permission was granted, Sainsbury's submitted an application to Judicially Review the Council's decision. The High Court has granted that the Judicial review be considered at a High Court hearing in August 2013.

Proposal

10. It is proposed to vary the section 106 agreement in order to reduce the round trip by allowing HGV's to travel along the A121 (Honey Lane, Goldings Hill) and the A1168 (Rectory Lane and Chigwell Lane - north of the Debden store). This means that delivery vehicles would travel more direct between Waltham Point and the Debden store through Epping Forest along previously excluded routes. A draft Deed of Variation to the Section 106 agreement has been submitted and proposes the following wording:

The Route Restriction Scheme, the excluded Routes and the obligations in clause 8 (except clause 8.1A) will not apply to any HGV movements to and from the Site in connection with the Sainsbury's store located at Torrington Drive Debden.

11. This would mean that the route restriction would still apply to the other Sainsbury's store's, such as those at Old Station Road, Loughton, Hall Lane, Chingford and The Broadway, Woodford Green. Should the variation be agreed, there will be a saving of 43km from the current route taken each time a delivery is made.

Relevant Local Plan Policies

HC5 - Historic Nature and Wildlife Value of Epping Forest

NC1 - Affect on Sites of Special Scientific Interest - Epping Forest

RP5A - Development likely to cause nuisance

T17 - traffic

Summary of Representations carried out and received

12. Sainsbury's, prior to make this application, carried out a consultation programme on the proposed revised route, which included 189 properties along the route fronting Woodridden Hill, Goldings Hill and Rectory Lane, resulting in two letters of response expressing concern that traffic has increased over the last 20 years and the additional delivery vehicles would increase this further, there were initial assurances that delivery vehicles would not use the forest roads when distribution centre was built, how would Sainsbury's stop delivery vehicles to other stores using the forest road and other supermarket delivery vehicles use the route.

13. Numerous site notices were erected along the proposed route between the Waltham Point Distribution Centre and the Debden Store.

LOUGHTON TOWN COUNCIL - As it was reported that Sainsbury's used only fixed wheel-based delivery vehicles to service the Debden Store and not larger articulated lorries, the Committee had NO OBJECTION to the variation of the existing Section 106 agreement that would allow up to eight vehicle movements a day along local roads, provided that the applicant undertook that such movements be of rigid wheelbase vehicles only.

LOUGHTON BROADWAY TOWN CENTRE PARTNERSHIP - Strongest support. We believe it is vital that the Council work with Sainsbury's to enable them to have full access to their store, as the continuity of presence of Sainsbury's in The Broadway is vital to the future. Limited access would also be of no advantage to future traders.

DEBDEN TRADERS ASSOCIATION - Strongest support. The possible end of Sainsbury's tenancy would have a dire effect on the other traders in and around The Broadway.

LOUGHTON RESIDENTS ASSOCIATION Plans Group - LRA Plans Group consulted 180 dwellings on the proposed new route and received only 4 replies: 2 for and 2 against. This was of course on the basis that the changes only applied for 4 lorries a day, and that they will be "10m rigid goods vehicles" and not the larger "artics". We hope that the variation will make this very clear.

RESIDENT OF BARRINGTON GREEN - Traffic and disturbance from large good vehicles outside my property is already an issue due to noise and shaking of house, unregulated access will lead to further traffic, noise and physical tremors, current route used ensures there is limited impact upon residents.

81 BALDWINS HILL - Strongly object. When the 106 was agreed it recognised that the banned route would otherwise have articulated lorries going daily through residential areas with nearby schools, along roads built for the needs of 100 years ago and through Epping Forest. The situation has not changed since 2000 except that there are now more local residents and in turn more cars and bikes on these forest and suburban roads, significant more deer crossing Woodridden Hill, Goldings Hill roads of which are narrow and twisty and recognised with recent 40 mph speed restriction, already good

existing route for Sainsburys using almost entirely modern motorway and dual carriageway roads. Sainsburys signed up to the 106; it is insulting to EFDC and its residents that they think they can now avoid their obligations. Mention is made of local consultation but I live within 35 metres of the proposed route and have neither received nor read anything until the 3rd May when the planning notice was posted to a local telegraph pole.

NATURAL ENGLAND - if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which Lee Valley Ramsar and SPA have been classified. Natural England therefore advises that your Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives. This application is in close proximity to the Cornmill Stream & Old River Lea, Turnford & Cheshunt Pits, Chingford Reservoirs and Waltham Abbey Sites of Special Scientific Interest (SSSI's). However, given the nature and scale of this proposal, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which these sites have been notified. We therefore advise your authority that these SSSI's do not represent a constraint in determining this application.

CONSERVATORS OF EPPING FOREST - The reasons for the S.106 Agreement, which is to protect the Forest's Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI), remain unchanged. As the National Planning Policy Framework (NPPF) states in paragraph 113 nature conservation sites require protection "commensurate with their status". Epping Forest's Beech and heathland habitats are of international importance and the threat to their condition and health from nitrogen pollution generated by traffic remains serious. Level of nitrogen oxide concentrations in the air are exceeded for the site with the main concentrations generated from traffic and the Forest road network adjacent to the key habitats. The variation to the S.106 proposed would use a delivery route that would result in an increase in HGV traffic along roads passing directly through these key habitats and would increase the associated nitrogen pollution. The Noise and Air Quality Assessment (AcousticAir Ltd) accompanying this planning application seem to imply that small increases above the threshold may be less important. However, there is scientific evidence of the worsening effects of nitrogen pollution the greater the size of the exceedance of the threshold, so such small increases above the threshold should be considered significant. Furthermore, such a proposed variation to this S.106 would also act in contradiction to the Epping Forest Transport Strategy adopted by Essex County Council and The Conservators in 2009. This Strategy takes a holistic approach and seeks to reduce the harmful impacts caused by traffic and roads in the Forest. Under this Strategy a reduction in the vehicle speed limit to a maximum of 40mph on roads across the Forest, including the proposed new delivery route, has already been implemented. Further measures to reduce impacts are planned. The Conservators would request your authority's continuing support for this Strategy's implementation and for the highway authority's approach to reducing the impact of traffic on the Forest.

EFDC ENVIRONMENTAL HEALTH OFFICER - reduced travelling distance

should present a fuel saving to the applicant and an emission saving to the environment.

Planning Considerations

14. The main issues in this case are concerned with traffic, air quality, residential amenity and the ecological impact on the forest and whether the routing of Sainsbury delivery vehicles on a more direct and shorter route from the Waltham Point Distribution Centre (WPDC) and the Debden Store would cause further undue harm to these factors, or indeed would there be benefits compared with the current longer route.

15. A transport statement was submitted with the application, which has been assessed by Highway engineers at the County Council. It states that there are 4 deliveries per day to the Debden store, which results in 8 trips to and from the WPDC per day in total. Along the proposed route this would result in a maximum increase of between 0.04 and 0.05% (1 in 2000 to 2500 vehicles) on average weekday traffic flows or an increase of between 0.7 and 0.4% (approximately 1 in 140 to 250 HGVs) on average weekday HGV flows. There would be a mileage saving of 70% (26,136 vehicle kilometres as opposed to 88,572) by using the new route and reduction in CO2 emissions of 111 tonnes/per annum.

16. County Council Highway officers agree with the conclusion that there would be no discernible highway impact. and given the fuel and associated emissions, there is justification to support the proposal.

17. Noise and Air Quality Assessments were also submitted based on measurements taken along the route. They conclude that the additional vehicles would not create any further noise when compared to that already experienced by occupants of residential properties along the route and that there would be no material change to the existing nitrogen oxide and carbon dioxide level of pollution from traffic already using the route. The Director of Environmental Services (Public Health) asked for clarification on the road traffic emissions, which were satisfied by confirmation that deliveries to Debden are not part of a multiple stop delivery, but where that possibly may occur, the current existing longer route would be used. Also, it was confirmed that routing is not at the drivers discretion and every store route is prescribed.

18. In respect of the impact of the re-routed delivery vehicles on the ecology of Epping Forest (and therefore its SAC or SSSI designation), a submitted technical interpretation report concluded that the impact on nitrogen deposition or nitrogen oxide concentration will be negligible. The Conservators of Epping Forest however have objected on policy grounds and in principle extra traffic would potentially have a negative effect. However, this is so discernable and furthermore, the proposals will greatly reduce the total mileage covered by the Sainsbury's HGV's, thereby decreasing the overall contribution to atmospheric nitrogen concentration. The appropriate modelling undertaken has established that the few additional vehicles created by the proposals would have no material change on deposition rates etc. Arguably, normal daily traffic variations will cause greater changes, and in each case, the additional Sainsburys vehicles will not alter the normal daily impact. The critical measure is whether a "likely significant effect" will occur, which according to Natural England, would not.

Summary

19. The Section 106 obligation restricts the route of delivery vehicles to and from the Sainsbury's Debden Store and the Sainsbury's Waltham Point Distribution Centre. It was imposed with the intention of protecting the environmental and nature conservation of the Forest. There is no route restriction for any other retailers that prevents the use of the A121 and the A1168 roads through the forest.

20. It has been demonstrated that the additional trips of up to 8 vehicle movements per day will have no perceptible impact upon the existing traffic levels within the forest. Whilst the comments from the Conservators of Epping Forest have been noted and considered, the assessment and technical reports conclude that there will be no additional impacts on the forest in respect of noise, air quality and ecology above those already experienced. Natural England have raised no objection. There have only been two objections from local residents, despite around 180 households being made aware of the proposal.

21. Finally, as acknowledged by the letters of support, it will allow the Debden store to remain open because it can continue to be serviced should the Langston Road Retail Park planning permission with the highway changes in Barrington Green and Chigwell Lane go ahead.

22. The proposed variation to the Section 106 agreement is therefore recommended for approval.