

**HERTFORDSHIRE COUNTY COUNCIL
DEVELOPMENT CONTROL COMMITTEE
TUESDAY 5 FEBRUARY 2002, AT 10.30 A.M.**

Agenda No

6

HERTSMERE BOROUGH

**REQUEST TO VARY CLAUSE 3(f) OF SECTION 106 AGREEMENT AND
PARAGRAPH 1.3 OF ENVIRONMENTAL MANAGEMENT PLAN CONTROLLING
LORRY ROUTING RELATED TO THE RE-CONTOURING OF BRIDGEDOWN
GOLF COURSE, ST ALBANS ROAD, BARNET**

Report of the Director of Environment

Author:- Richard Greaves
Tel: 01992 556225

Local Member:- J W A Usher

1. Purpose of Report

- 1.1 To consider a request to vary clause 3(f) of a section 106 agreement and paragraph 1.3 of the environmental management plan controlling lorry routing related to the re-contouring of Bridgedown Golf Course, St Albans Road, Barnet. **[Please note that this is not an application for planning permission.]**

2. Summary

- 2.1 Planning permission was granted by the County Council for the re-contouring of Bridgedown Golf Course, involving the importation of inert materials by lorry, on 6 June 2001 subject to a Section 106 legal agreement. The applicant has made a formal request to the County Council to vary the Section 106 legal agreement and Environmental Management Plan (EMP) attached to the planning permission. Amongst other matters, the S106 agreement and EMP currently prevent lorries from entering or leaving the site from and to the Barnet direction. The applicant wishes to vary the terms of the agreement to allow lorries to arrive or leave the site to and from the Barnet direction, provided this meets the advance approval of the County Council. Considerable opposition has been raised regarding the adverse impact lorries travelling through Barnet would have, particularly in respect of congestion, pollution and safety.

3. Conclusion

- 3.1 The report concludes that the Director of Environment should be authorised to refuse the request and that Clause 3 (f) of the Section 106 Agreement dated 4 June 2001 and paragraph 1.3 of the Environmental Management Plan dated April 2001, attached to the aforementioned Section 106 Agreement, should remain unaltered.

1. Background information and proposal

- 1.1 Bridgedown Golf Course comprises an 18 hole (par 72) golf course, a 9 hole practice course, clubhouse, car park and further practice area, located within the Green Belt. The golf course extends over an area of some 70 hectares with the access located off the A1081 St Albans Road. The southern boundary of the site follows the administrative boundary between Hertsmere and Barnet Boroughs. South of this boundary lies the residential urban fringe of High Barnet.
- 1.2 Planning permission was granted by the County Council on 6 June 2001 for the re-contouring of the Golf Course which involves the importation of over 440,000m³ of inert materials by Heavy Goods Vehicles (HGVs). The development commenced in August 2001 and, to date, a large proportion of phase 1 (of 6 phases) has been re-profiled with imported inert materials. This has involved up to 75 HGV deliveries of materials at the site per day.
- 1.3 Prior to the issue of the planning permission, a Section 106 legal agreement and Environmental Management Plan (EMP) were completed. Amongst other matters, the agreement and EMP control the routing of HGVs entering and leaving the site by preventing lorries from turning left directly into the site when approaching from the Barnet direction¹. These restrictions were imposed at the request of the County Council as Highway Authority and the London Borough of Barnet to restrict lorries travelling through the Barnet urban area. The original planning application also gave rise to a large number of objections from local residents, who were concerned that lorries connected with the development may travel through Barnet. In summary, the restrictions are achieved by the following measures:
- prior to the commencement of the development the access junction was remodelled by narrowing the right turn egress from the site to prevent lorries from exiting the site in the Barnet direction;
 - a clause was imposed within the Section 106 legal agreement attached to the planning permission requiring the developer to insert a provision into every contract that vehicles only arrive from and leave in a north westerly direction on the A1081 St Albans Road , and;
 - an additional clause in an Environmental Management Plan, made binding through the S106 agreement, requiring that lorries shall arrive and leave in a northerly direction and that signs are erected warning against access to Barnet to the South.
- 1.4 In imposing such restrictions, the County Council has taken every available practicable option to restrict the routing of lorries, used in connection with the development, through Barnet. Nevertheless, in August 2001, it was found that lorries using the site were travelling through Barnet and entering the site from the south. The Council wrote to the applicant threatening legal action if lorries continued to enter the site from the south. To date, following a change of contractor responsible for managing the deliveries of waste, the applicant has observed the routing restrictions.

¹ See Appendix 1 for a full transcript of Clause 3 (f) and paragraph 1.3 of the Environmental Management Plan

- 1.5 The applicant states that the restrictions imposed have led to operational difficulties when suitable source sites have become available in the Barnet area. The applicant therefore seeks to amend both clause 3 (f) and paragraph 1.3 of the Environmental Management Plan (EMP) to facilitate the acceptance of material delivered via a left turn from sites in Barnet.
- 1.6 The applicant has stated he fully supports the objective of ensuring that HGVs through Barnet are not increased as a result of the development at the golf course. Furthermore the applicant claims that such movements are not increased as they are taking place in any event because of development being carried out at other sites in Barnet for which the logical haulage route out of Barnet to landfill sites is via the A1000 or A1081 past Bridgedown Golf Club. This claim has been supported with a survey of lorry movements when the Golf Course was closed for the acceptance of inert materials.
- 1.7 The distinction between such journeys from Barnet that would otherwise be exiting Barnet via the A1000 and A1081, and those originating in other areas to the north, west and further afield to the south has been discussed by the applicant and new site contractors responsible for managing the delivery of inert materials at the site. The contractors believe that it is reasonable to distinguish between such vehicle movements, and this distinction can be built into site reception procedures, such that the objective of preventing HGV movements being drawn into Barnet is achieved.
- 1.8 The requested changes consist of an agreed catchment area being drawn up around Barnet which would allow any development sites within this area to provide material for Bridgedown Golf Course for the duration of these works. If on any occasion the number of vehicles were greater than five, then the prior permission of the County Council would be sought. The applicant states information would be provided in advance to assist the County Council in making its decision. Such information would comprise:
- the address of the site of source;
 - a plan showing the location of the source site and the route(s) likely to be taken between the site and the golf course;
 - a description of the material to be delivered;
 - the approximate volume of material to be delivered and number of loads;
 - the approximate duration of the contract.
- 1.9 Furthermore, the applicant has stated that all vehicles entering/exiting the site would be monitored by CCTV and any lorries arriving at the site having turned left from St Albans Road whose driver did not provide a token/ticket authorising the vehicle to enter the site from a southerly direction, would be turned away.

2. Consultations

- 2.1 Hertsmere Borough Council has no objection to the proposals.
- 2.2 London Borough of Barnet objects to the proposed variation and wishes the restrictions on lorries turning left into the Golf Course to remain in place.
- 2.3 The County Council as Highways Authority recommends that the restriction on vehicle movements as originally proposed remain in place.

3. Representations

- 3.1 A total of 40 properties were consulted on the application. At the time of writing 88 letters have been received objecting to the proposed variation including a letter from Friends of the Earth (Barnet), The Barnet Society, Sebright, Puller, Alston and Calvert Roads (SPACES), The Agenda 21 Partnership, Christchurch C of E JMI School and the Bridgedown Action Group. The main issues of concern can be summarised as:

- pollution from noise and airborne emissions;
- the potential to cause structural damage to roads and buildings;
- risk of lorries causing accidents;
- the worsening of congestion problems, particularly along Barnet High Street;
- reducing the quality of the environment for shoppers

4. Planning Considerations

- 4.1 Highways and Traffic Implications: Waste Policy 43 sets out the council's policy with regard to traffic and waste operations. It states that planning permission will only be granted for disposal, transfer, processing and recycling of waste which is capable of being transported to the site via primary and distributor roads. The Council must also take into account the effect the activity will have upon other users of the road system in the area and the adjoining environment.
- 4.2 Amongst other measures highlighted in Hertfordshire's Local Transport Plan (LTP), the County Council's strategy for HGVs is to direct lorry movements along primary routes through appropriate signing and to encourage their use for the longest part of the journey and thereby discourage the use of local roads. Furthermore the LTP recommends the implementation of restrictions or bans where other measures have not been successful and where the restrictions will have overall benefits and not move HGVs from one unsuitable road to another.
- 4.3 The commencement of the development has undoubtedly lead to an increase in the number of HGVs travelling along the A1081, St Albans Road. The A1081 is identified in the LTP as a main distributor road, with the A1 and M25 identified as primary routes.
- 4.4 The County Council as Highway Authority and the London Borough of Barnet both object to the amendment of the routing agreements and recommend that the existing restrictions remain in place. In accordance with waste policy 43, the effect the

alteration of the existing restrictions will have upon other users of the road system in the area and the adjoining environment should be taken into account.

- 4.5 Through the proposed amendment of the S106 agreement, the applicant primarily seeks to enable vehicles travelling north from Barnet itself direct access into the site. Although the applicant cannot guarantee a maximum number of vehicles originating from sites within Barnet, the applicant states that such movements are likely to be a small fraction of the total, partly because Barnet could not possibly supply more than a small proportion of the material required during the lifetime of the project. Evidence supplied does show that a number of laden lorries are travelling northwards along the A1081 through Barnet, either transporting inert waste to other suitable sites in Hertfordshire, or using the South Mimms roundabout to travel southwards back along the A1081 before delivering material to the Bridgedown Golf Course from the north.
- 4.6 Quite clearly lorry movements through the Barnet area have an adverse impact upon the residents of Barnet. The primary purpose of the S106 legal agreement and Environmental Management Plan was to discourage lorry movements through the Barnet urban area. More recently the applicant has been operating the site in accordance with the terms of the extant S106 legal agreement. This has meant that lorries are now travelling to the site from the north along the A1081. Although it is not clear whether the adverse impact of lorries travelling through Barnet has been lessened, it is possible that residents of Barnet may experience additional disturbance from lorries should they be allowed to access the site from the south.
- 4.7 The imposition of the routing restriction has been an inconvenience to lorries travelling from the south through Barnet to reach the site. It is highly probable that the prevention of immediate access to the site from the south has deterred lorries from travelling through Barnet to reach the site, although there is no evidence to support this. At the time of writing, lorries approaching the site are approaching the site along the A1081 from the direction of the A1 and M25 and the site is continuing to receive sufficient materials to facilitate the re-contouring of the golf course. This suggests that it is entirely feasible for the applicant to observe the requirements of the Section 106 legal agreement without seriously impinging on the successful implementation of the development. At the very least it is considered that the request was premature as the site had only been operational for two months at the time the request was submitted.
- 4.7 Furthermore, lorries which may be encouraged to travel through the Barnet Urban area should they be authorised to access the site from the south, may find it practicable to follow alternative routes should the Section 106 agreement and EMP remain extant and unchanged. This may assist in influencing lorries to follow primary routes for the longer part of their journey, in accordance with the aims of the LTP.

5. Conclusion

- 5.1 On balance therefore, whilst suitable materials may continue to arise from development sites within the Barnet area, it is considered that any sustainable objectives, achieved in enabling lorries to travel direct and therefore shorter distances to the golf course, are outweighed by other considerations. Firstly, the restriction on entering the site from the south will act as a deterrent for speculative lorry drivers

travelling though the Barnet area. This should therefore discourage laden HGVs from finding the shortest possible route through the residential areas of Barnet in order to reach the golf course. As such, lorries may find it more convenient to travel along primary routes, such as the A1 and M25 before travelling to the golf course from the north along the A1081, St Albans Road.

- 5.2 Secondly, although the measures the applicant has suggested of controlling access from lorries delivering material from the Barnet area may work if vigorous control is established at the golf course, once established, the site may begin to attract other lorries from Barnet and the north London area, which may have otherwise followed alternative routes. This is particularly important when considering how officers of the County Council would be able to ensure compliance with the routing restrictions. Should, for example, an unauthorised lorry enter the site from the south, it would have to be turned away from the golf course, with disruption and disturbance to the residents of Barnet already having been created. This 'magnet' effect of the golf course to lorries travelling through Barnet would be extremely difficult to monitor and control.
- 5.3 It is therefore concluded that Clause 3 (f) of the Section 106 Agreement dated 4 June 2001 and paragraph 1.3 of the Environmental Management Plan dated April 2001 attached to the aforementioned Section 106 Agreement remain unaltered and extant.

6. Financial implications

- 6.1 Planning applications should be determined on the basis of material planning considerations, and not on the basis of their financial implications for the County Council. However, it is a requirement of the County Council to advise all Committees of the financial implications that may arise from their decisions.
- 6.2 Refusals to amend or dispense with Section 106 agreements can only be appealed once the agreement is in force for 5 years. This agreement has been in force for eight months and therefore the question of costs arising does not apply in this instance.
- 6.3 The applicant would meet the costs associated with the revision of the S106 Agreement, should permission be allowed.

Background information used by the author in compiling this report

AERC letters dated 3, 10 October 2001 and 10 December 2001;

Hertfordshire Waste Local Plan 1995 - 2005.

Hertfordshire's Local Transport Plan 2001/02 – 2005/06 dated July 2000.

SECTION 106 AGREEMENT 4 June 2001

Clause 3 (f)

3. The Developer for itself and successors in title hereby jointly and severally covenants with the County Council as follows:.....
 - (f) that in every contract that it enters into with contractors to bring waste to the Land for re-contouring the golf course it shall insert a provision which shall be binding on those contractors that their vehicles shall arrive at the Land from and leave in a north westerly direction using the A1081 St Albans Road...and in the event that a contractor breaches this requirement the Developer shall issue a written warning to the contractor concerned and in the event of a subsequent breach the Developer shall prohibit that contractor's vehicles from entering the Land for the purposes of bringing waste to the Land.

ENVIRONMENTAL MANAGEMENT PLAN April 2001

Paragraph 1.3

- 1.3 All possible measures shall be implemented to prevent Heavy Goods vehicles (HGVs) using the site from travelling from or to the direction of Barnet. This shall include the implementation of access/egress arrangements in accordance with the planning permission.

Unless other wise agreed in writing by the County Council as Waste Planning Authority, the site shall only be accessed by HGVs via the A1081 to the north of Bridgedown Golf Course. On exiting the site, signage associated with the entrance shall warn against access to the town of Barnet in the south. No vehicles associated with the construction or importation of material shall enter the residential areas of Barnet.