Recommendation Report for Planning Permission

REF NO: **R/140/13/**

LOCATION: Sainsburys Supermarkets Ltd
Unit C, New Road
Rustington

PROPOSAL: Installation of transformer and generator at ground floor level along with rooftop air handling units and condenser units.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application is for the installation of various plant and machinery · 2 Air Handling Units on the roof of the building; · 6 Condenser packs on the roof; · A transformer and generator to the south eastern boundary on the ground floor, enclosed by a hit and miss timber fence; · Sprinkler tank and pump house; · Electricity Substation
SITE AREA	2.34ha
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat but a lower level than the main road by upto 2 metres.
TREES	There are a number of trees along the southern and western boundaries that will not be affected by the proposals.
BOUNDARY TREATMENT	Northern boundary is marked by a 1.5 - 4 metre tall retaining wall with the A259 beyond. Eastern boundary is marked by a variety of trees of up to 6 metres in height, beyond which is Darlington Court a residential care home. The southern boundary is mixed with parts adjacent to Burmill Court and the western end of Dinsdale Field having an existing mature hedgeline. A number of mature trees along the southern boundary adjacent to Dinsdale Field have been removed and the southern boundary is distinguished by a metal fence and closed board fence along this part of the site. The western boundary is marked by the site access road,

beyond which is the rest of Rustington Retail Park.

SITE CHARACTERISTICS

The site is currently undergoing construction of a new Sainsbury's superstore. The area to the south of the site is a residential road with a number of caravans and chalets which are occupied year round.

CHARACTER OF LOCALITY

The area is an out of town centre retail park with residential properties to the south and east of the site. The A259 a dual carriageway A road, which is part of West Sussex County Council Local Transport Plan 3 "Strategic Route Network", is to the north of the site.

The southern end of the site is a residential estate with a number of caravan and chalet properties along Dinsdale Field and brick built properties along Burmill Mews. The removal of a number of trees along the southern boundary of the site ensures that the superstore under construction is immediately visible from these properties on Dinsdale Field.

The area to the north of the site is open agricultural fields which gives the site a semi-rural character along the northern road frontage.

RELEVANT SITE HISTORY

R/59/12/	Demolition of existing foodstore. Construction of A1 Class retail foodstore, service yard, covered customer car park and landscaping improvements.	Approved Cond + S106 01-11-2012
R/34/13/DOC	Application to discharge conditions 5,12,13,17,20 and 21 imposed under planning application R/59/12	DOC Part Approved 07-06-2013

It should be noted that the propsoed roof top plant and air conditioning units were originally included in an application for Non Material Amendment R/144/13/NMA. This has now been removed from that application and will only be considered through this application.

REPRESENTATIONS

Representations received:

Rustington Parish Council

Rustington Parish Council - Further to my letter dated 25 July 2013, My Council has further considered this application and has agreed that it should object to it on the following grounds:-

The proposal, with particular reference to the roof top units and transformer/generator, by reason of their size, noise and location in close proximity to the neighbouring properties in Dinsdale Field, Burmill Court and Angmering Way, would be over-bearing, visually dominant,

unsympathetic and severely detrimental to the amenities and quiet enjoyment of the residents of those properties.
I would be grateful, therefore, if you could update my Council observations in respect of this application.

16 Letters of Objection

- generator and transformer in south east corner of the site will run 24 hours and keep us awake
- units have been erected without planning permission.
- should be erected on the north side of the building
- building too close to the boundary
- units are going to cause ongoing noise nuisance when in use as well as seriously blighting the view
- converts the semi-rural environment to an industrial one
- who ever approved this application should resign and grow vegetables.
- new store blocks out the sunset.
- air handling units are directly opposite my house and my bedroom windows.
- units are on top of an already tall building and make it look even more unsightly and will I am sure be noisy because they are so near.
- the generator and transformer at ground floor level should not be allowed stay as they will produce sleepless nights.
- the grey box on the roof is any eye sore.
- the new air handling units will increase the size of the building which is already too tall.
- can the air handling unit be placed on the north side of the new building.

Comments on Representations received:

The local residents concerns have been noted and will be taken into account when considering the application in the conclusions section below.

CONSULTATIONS

Environmental Health

Consultations responses received:

Arun District Council Environmental Health 1st response - No objection.

Arun District Council Environmental Health 2nd response - As discussed, in the light of recent concerns expressed by local residents I have re-reviewed the plant noise assessment and some clarification is required. I understand that the proposed store opening hours are 0700-2200hrs, has a condition been imposed restricting store opening hours?

There is a significant difference between noise produced by Roof-Mounted Extraction Fans (Table 3.4), when the store is open and noise produced when the store is closed, although overall plant noise appears to be dominated by noise from the Air Handling units (Table 3.3). The predicted noise rating from the combined plant effects for the whole daytime period (0700-2300) and whole night time period (2300-0700) are summarised in table 5.1, and indicate that the background in the vicinity of sensitive receptors over the 16 hour period will be in excess of 54dB(A). Unfortunately the table headings in Results of Baseline Noise Monitoring Survey (Average Levels) - Table 4.2 - are not legible on the on-line copy, it is assumed that the far right column relates to the background noise level (L90) and this suggests evening levels (15min) in the vicinity of sensitive receptors (ST3) of 43/44dB.

It is noted that the raw data collected from the long term (background) monitoring is available

(Chapter 4.1). In light of the above I should be grateful if you could seek clarification on the impact of noise during the later evening period upon the nearest residential receptors in Dinsdale Field/Angmering Way, when background noise levels are anticipated to be low, and confirmation that the noise rating during any 1 hour period will be more than 10dB below the existing background noise level.

Comments on Consultation responses:

The second response from Environmental Health requests a number of pieces of further information to clarify the Noise Impact Assessment. This requested information was submitted with insufficient time to be considered in the determination of this application.

POLICY CONTEXT

Designation applicable to site:
Within Built-Up Area
Class A road

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN32	Noise Pollution
	GEN33	Light Pollution
	GEN34	Air Pollution
	GEN7	The Form of New Development

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 States:-

"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."

The proposal is considered to conflict with relevant Development Plan policeis in that it would have a harmful effect on the character of the area and would be deleterious to the amenity of neighbouring residences which is contrary to Policy GEN7 of the Arun District Local Plan.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council has recently published the Draft Arun Local Plan and is therefore a material consideration in the determination of this planning application. It remains subject to publication of a pre-submission Plan, formal public consultation, resolution of objections, examination and the formal adoption process as a whole, and is therefore of very limited weight in

terms of the decision making process at this stage.

CONCLUSIONS

The site is subject to planning permission (ref. R/59/12) which permitted the demolition of the existing foodstore, and construction of a new class A1 retail foodstore, service yard, covered car park and landscaping.

This application seeks permission for various plant machinery. It is proposed to install:

A) 2 x Air Handling Units on the roof of the building (on rooftop on south of new building);
B) 6 x Condenser packs on the roof (on rooftop on south and east of new building);
C) A transformer and generator to the south eastern boundary on the ground floor, enclosed by a hit and miss timber fence;
D) Sprinkler tank and pump house (at north east corner of site);
E) Substation (northern boundary of the site)

Each of the proposed plant and machinery will be considered in turn below.

ROOFTOP PLANT AND EQUIPMENT

The application proposes two pieces of plant on the flat rooftop at the southern end of the building.

A) 2 x Air Handling Units on the roof of the building
B) 6 x Condenser packs on the roof (on rooftop on south and east of new building);

The 2 Air Handling Units are located on the southern rooftop of the store which is currently under construction. The units have been put in place prior to the determination of this application and are evident from the adjacent properties at Dinsdale Field and Burmill Mews.

The proposed condensers are approximately 1.2 metres tall and will be grey metal in appearance. The proposals are located on the eastern end of the flat roof section to the rear and east of the site

- Noise Impact Assessment

Section 123 of the NPPF states that planning decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;

- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;

- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

The applicants submitted a detailed Noise Impact Assessment. This was considered by Arun District Councils Senior Environmental Health Officer.

The Noise Impact Assessment confirms that noise from proposed plant will be below the lowest measured existing background "target levels" derived from BS 4142 at the nearest existing residential receptors, subject to the provision of noise attenuation measures proposed within the report.

The Senior Environmental Health officer following a more detailed review requested further information and clarification of various aspects of the Noise Impact Assessment. These were received with insufficient time to consider them in advance of the application being determined.

A number of properties on Dinsdale Field are in very close proximity including 7 Dinsdale Field (approximately 15 metres), and April Cottage (approx 25 metres). While the contents of the Noise Impact Assessment were broadly accepted by the Environmental Health Officer, it was considered by the Planning Officer that as a number of the properties on Dinsdale Field were caravans and mobile homes that further screening would be beneficial in terms of noise attenuation and to screen the plant from view.

Local residents in the area have submitted detailed objections to the application identifying their concerns about the potential noise from the air handling units. Given the proximity of the various homes to the air handling units it is considered that the level of noise generated could be of an extent to have a significant effect on quality of life.

As a result of this, the applicants reviewed of the proposed refrigeration and air conditioning plant and have proposed to make additional upgrades and screening to ensure that the plant noise does not exceed the target noise levels. The applicants submitted further plans showing a 3.2 metre tall timber fence to absorb further noise. However, as set out below in the "Visual Amenity" section this is not considered an appropriate solution.

It is therefore considered that due to the required information being submitted without sufficient time to be fully considered that the proposal has failed to demonstrate that there will not be a significantly adverse effect from noise and therefore is recommended for refusal.

- Visual Amenity

The existing flat roof is approximately 10 metres tall and the air handling units are proposed to be located on top of this. The air handling units are approximately 2.1 metres in height and 10 metres in length. They are constructed of steel and have a generally industrial appearance. It is considered that given their roof top prominence the proposed units presented an incongruous addition to the superstore and harmed the visual amenity of residential properties on Dinsdale Field and Burmill Court from which they could clearly be seen.

The condenser units are located on the eastern end of the flat roof section to the rear and east of the site, and are not immediately visible from the surrounding public realm and as such is not likely to have a significant impact on visual amenity and the character of the area.

As mentioned above the applicants were requested to provide further screening that would reduce the noise impact and screen the visual impact of the air handling units. Plans were submitted

showing a closed board acoustic fence measuring 3.2 metres tall wrapping around the whole of the existing flat roofed area.

It is considered that the proposed fencing arrangement would not resolve the concerns raised surrounding the visual amenity of the proposal. The proposed fence would be 1.2 metres taller than the ridge height of the superstore. The proposed wooden fence would contrast sharply with the materials used in the construction of the store and would be deleterious to the appearance of the building.

The proposal would further have an adverse effect on the residential amenity of neighbours by increasing overshadowing on properties on Dinsdale Fields especially early morning ambient light.

The plans show that the fence would add significantly to the bulk of the building. Given the proximity of the proposal to the adjacent residential properties they would have an overbearing impact which would be harmful to the character of the area and the amenity of the neighbouring properties.

In conclusion, the proposed rooftop plant noise has been assessed and further information was identified as being necessary. This has not been submitted with sufficient time to be fully assessed. Furthermore, the appearance of the proposed units were considered unacceptable, and the applicants proposed to construct a 3.2 metre fence on top of the existing 10 metre tall flat roof to screen it from adjacent residences. The proposed fence was considered to have a further deleterious effect on the character of the area and would be overbearing and result in a further degredation of residential amenity. It is therefore considered that the proposed rooftop plant should be refused.

TRANSFORMER AND GENERATOR

C) A transformer and generator to the south eastern boundary on the ground floor, enclosed by a hit and miss timber fence.

The proposed transformer and generator are immediately visible from a number of adjacent residential curtilages along Burmill Court and Angmering Way. The proposed transformer and generator are proposed to be housed in a hit and miss timber fence enclosure measuring 2.8 metres tall, 14.75 metres long and 4.6 metres wide.

It is not considered that the proposed transformer and generator will be visible from a number of residences and given the size and scale of the proposal will have an unacceptable impact on the character of area.

A number of local residents have expressed concerns through their letters of representation that the generator and transformer will generate significant amounts of noise. It is located in close proximity to a number of residences along Angmering Way. The applicants have not submitted any information as to whether the transformer and generator will produce noise at a level that is likely to have a material impact on the neighbouring properties.

It is therefore considered that the transformer and generator are not compliant with Policy GEN7 in terms of visual amenity and that insufficient information has been submitted to assess the noise

impact of the proposal.

SPRINKLER TANK AND PUMP HOUSE

D) Sprinkler tank and pump house (at north east corner of site);

The proposed sprinkler tank and pump house occupies a very prominent position at the north east corner of the site relative to the public realm. The sprinkler tank is also visible from nearby properties and residences in the adjacent Darlington Court.

The sprinkler tank measures approximately 6.4 metres tall and 6.8 metres in width. It is untreated grey galvanised steel, giving the structure an industrial appearance.

It is considered that the sprinkler tank would be visually incongruous and out of place in the local street scene. It is of significant scale and is not sufficiently screened from the accessible public realm. The sprinkler tank damages the established character of the area.

It is not considered that suitable landscaping, screening or minor design changes could mollify the proposal to such an extent as to make it acceptable in planning terms and is therefore recommended for refusal.

ELECTRICITY SUBSTATION

E) Substation (northern boundary of the site)

The proposed electricity substation is located within the site boundary and is not immediately visible from public areas. It is acceptable in design and appearance and will not have any appreciable impact on the character and appearance of the area. The substation is therefore considered acceptable.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal neutral impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

RECOMMENDATION

REFUSE

1 The scale, proximity and location of the proposed Air Handling Units would result in an unacceptable loss of ameity to the occupants of the adjoining properties by way of an overbearing effect. The proposal therefore conflicts with policy GEN7 of the Arun District Local Plan and paragraph 17 of the National Planning Policy Framework.

2 The proposed sprinkler tank and pump house is located in a prominent position adjacent to a main thoroughfare. By reason of its scale, bulk and finsh it will result in a form of development that will have a significantly adverse impact on the visual amenities of the location and character of the area contrary to Policy GEN7 of the Arun District Local Plan and paragraph 17 of the National Planning.

3 The proposed transformer and generator with timber enclosure is located in close proxcimity to a number of residential dwellings it is considered that due to the size and scale of the structure it would constitute and incongruous feature which would be conflict with the established character of the area.

4 The application by virtue of the lack of supporting information relating to likely noise impacts from the proposed air handling units and transformer and generator units is considered to be contrary to Policy GEN 32 of the adopted Arun Local Plan, and as such impacts cannot be assessed in the absence of such information.