

Committee(s)	Dated:
Epping Forest and Commons	14 01 19
Subject: Epping Forest Land Retention Policy – Results of initial Negotiations with Highway Authorities (SEF 2/19)	Public
Report of: Colin Buttery, Director of Open Spaces	For Decision
Report author: Paul Thomson - Superintendent of Epping Forest	

Summary

Your Committee of November 2017 adopted a Land Retention Policy which was developed to arrest the loss of Epping Forest Land dedicated to a range of Highway Improvement Schemes. Such was the concern of Members at the gradual erosion of Forest boundaries that the policy was amended at Committee to replace a proposed 1:1 replacement ratio with a gearing ratio of 1:10, which was adopted to seek additional compensatory land to help address the historic loss of Forest Land to Highway Schemes.

This report is necessary to inform Committee with regard to the lack of progress with negotiations on the initial implementation of the new Policy. Both the London Borough of Waltham Forest in relation to a pedestrianised crossing at Gilberts Slade, and Essex County Council in relation to a safe crossing point at Honey Lane, Waltham Abbey and road safety project at Lindsey Street, Epping, have resisted the City Corporation's proposals for a gearing ratio and have indicated a preference to abandon projects which have both community and Forest benefits rather than provide additional compensatory land.

The 1:10 gearing ratio has been regarded as obstructive to road safety schemes which are keenly sought by local communities. The ratio requirement currently requested exceeds any compensation code or other regulatory arrangements, such as the Land Acquisition Act requirement to replace Open Space in 'no less in area and equally advantageous as the land taken'. There is a risk that this Policy could lead to the exercise of Compulsory Purchase Order (CPO) powers to acquire land for road schemes. The loss of goodwill and co-operation with the Highway and Traffic Authorities and the potential exercise of CPO powers would not be in the charity's best interests and therefore the original 1:1 compensatory approach is recommended.

Recommendation(s)

Members are asked to approve:

- i. The revision of the Land Retention Policy approach to seek a 1:1 compensatory ratio on land sought for Highway and Traffic Scheme dedications in line with the compensatory requirements of the Land acquisition Act of 'no less in area and equally advantageous as the land taken'.
- ii. Retain the discretion of the Conservators to consider requests on a case-by-case basis having regard to the best interests of the charity and the previous dedication history with the Highway Authority. Any agreement must ensure that the City is not bound to agree future highway dedication requests, even if a land retention parcel has been transferred "in lieu" of future dedications.
- iii. Where Highway and Traffic Authorities are unable to offer compensatory land already in their ownership contiguous with Forest boundaries, Committee may consider the purchase and dedication of Buffer Land as Forest Land as a suitable exchange.

Main Report

Background

1. The growing volume of road traffic on Forest roads and the increasing complexity of road safety schemes both encourage Highway Authorities to seek additional Forest Land to better manage the road network across and adjoining Epping Forest. While the Epping Forest Act provides powers for the dedication of highways, a key statutory purpose is to keep Epping Forest '*uninclosed and unbuilt on*', resisting and abating all '*all attempts to inclose, encroach, or build on any part thereof*'.
2. As the suburbs of London have grown around the Forest, the City Corporation has previously supported road schemes on Epping Forest Land including the construction of major highways such as Rangers Road; The Whipps Cross Tramway and the Whipps Cross Roundabout, together with a plethora of road widening, bus layby and safe crossing schemes. Dedicated legislation has been enacted to manage the impact on the Forest of the M25 Motorway; A406(T) North Circular and M11 Relief Road.
3. Schemes for safe crossing points were also one of six objectives of the Epping Forest Transport Policy 2006-2016 which was adopted by your Committee on 10 November 2008. Crossing Point schemes inevitably require the dedication of roadside verge to support new infrastructure and footway treatments.
4. To address the progressive loss of Forest land your Committee of November 2017 adopted a Land Retention Policy to secure compensatory land to replace

land lost to Highway Improvement Schemes. Such was the concern of Members at the gradual erosion of Forest boundaries that the policy was amended at Committee to replace a proposed 1:1 replacement ratio with gearing ratio of 1:10 was adopted in order to signal to Highway Authorities the importance of Epping Forest Land and to address the historic loss of Forest Land to Highway and Road Safety schemes.

Background Position

Essex County Council

Bell Common Turn, Epping

5. Your Committee of 11 October 1999 has previously considered requests by Epping Forest District Council and Essex County Council for improvements to the junction of the Epping High Road (B1393) and Ivy Chimneys Road to provide a right turn filter for northward traffic at a queueing traffic pollution 'hotspot' for the District. Essex County Council has indicated that the need to provide compensatory land will make the project unviable.

Honey Lane (A121) The Woodbine Close Park Crossing, Waltham Abbey

6. Your Committee is yet to consider proposals by Essex County Council's Epping Forest Local Highways Panel (LHP) to provide a safe crossing point on Honey Lane between The Woodbine Public House and the Woodbine Close Residential Park to the north of the A121 and Epping Forest and the bus service to Loughton to the south. The crossing would also benefit horse riders entering the Forest from Woodgreen Road.
7. The crossing proposals included a substantial widening of the A121 estimated at 50.9m² of Forest land to enable the construction of a pedestrian refuge on the busy road. Officers would prefer to see a Pegasus Crossing at this point precluding the need for road widening, however, the 40mph Speed Restriction and current accident record do not currently justify a Pegasus Crossing.

Lindsey Street Spur

8. Your Committees of 15 May 2017 and 3 July 2017 considered proposals for a neutral exchange of Forest Land at Epping Green to improve the Lindsey Street/Palmers Hill junction for turning farm and heavy good vehicles in exchange for the closure of the narrow Lindsey Street 'spur' which fronts the Epping war memorial. Your Committee of 3 July 2017 approved a neutral exchange of 47m² of Forest Land.

London Borough of Waltham Forest

Woodford New Road(A104) Pedestrian Crossing

9. Your Committees of 20 November 2017 and 15 January 2018 considered a request by LBWF for the dedication of Highway infrastructure on Forest Land to accommodate a relocated Bus Shelter and the installation of a new pedestrian Pelican road crossing between Gilberts Slade and Canada Plain. A dedication of 66m² was agreed by your Committee of 15 January 2018 subject to a reduction

in speed restrictions to 30mph and the provision of compensatory land on a 1:10 ratio.

Knots Green

10. LBWF Highways have recently enquired about the potential dedication of 83m² of Epping Forest Land at Knots Green, Leytonstone, to support the construction of highway widening to include a cycle lane addition to the Lea Bridge Road and Leyton Green Road junction.

Current Position

11. Officers have commenced negotiations with Highway Authorities at Essex County Council and the London Borough of Waltham Forest for two schemes that already have Committee approval, together with two further schemes that are under early discussion prior to presentation to your Committee.

Essex County Council

Bell Common Turn, Epping

12. The matter of the Bell Common turn is further complicated by the Epping Forest District Council's Local Plan, where oblique references to an Infrastructure Plan (IP) indicate the need to make improvements to a number of road junctions to improve the increased flow of traffic associated with new developments. The IP proposals include new and improved filters lanes at Bell Common. Realistically, it is not possible to consider any road widening scheme while there is a wider threat to the Forest by major traffic schemes.

Honey Lane (A121) The Woodbine Close Park Crossing, Waltham Abbey

13. Officers for Essex County Council have indicated that the funding for the crossing point project is dependent on the standard dedication of Forest Land without compensation of 500.9m² (0.12 acres). Essex County Council has indicated that it does not have sufficient land adjacent to the Forest to exchange in order to meet the Trustee's request. A recent public meeting with residents of the Woodbine Close Residential Park indicated considerable frustration with the delay in the provision of this crossing point.
14. As with Bell Common the matter is also complicated by the Epping Forest District Council's Local Plan, where the IP indicates the need to make improvements to a number of road junctions to improve the increased flow of traffic associated with new developments. The IP proposals include a 'crawler lane' on Woodredon Hill which is contiguous with Honey Lane. Realistically, it is not possible to consider any road widening scheme while there is a threat to the Forest through a much more extensive road widening scheme.

Lindsey Street Spur

15. A safety audit by the Highway Authority design team has indicated that the widened turning at the Palmers Hill and Lindsey Street junction will no longer be safe for pedestrians to cross and therefore surfaced pathways will need to be provided along either side of Lindsey Street until a safe crossing point is

achieved. This work will require an additional 230m² of highway dedication on Forest Land. As already stated, Essex County Council has indicated that it does not have sufficient land adjacent to the Forest to exchange to meet the Trustee's request of 2,300m² (0.568 acres) of compensatory land and therefore cannot complete the proposed project.

16. Essex County Council has indicated that it is unable to offer suitable compensatory land from its existing land ownership portfolio. To help address this shortfall the City Corporation could, subject to Committee approval, consider the sale of suitable quantities of Buffer Land to compensate for the loss of Forest Land.

London Borough of Waltham Forest

Woodford New Road(A104) Pedestrian Crossing,

17. The London Borough of Waltham Forest have rejected the Trustees' request for 660m² of compensatory land, citing the return of land proposed under the Whipps Cross roundabout 'Mini-Holland' redevelopment and formal negotiations regarding the return of the Tramway at Whipps Cross Road, both of which are subject to separate negotiations. Transport for London funding for the project will expire on 31 March 2019.

Knots Green

18. The London Borough of Waltham Forest have rejected the Trustees' request for 830m² of compensatory land, again citing the return of land proposed under the Whipps Cross roundabout 'Mini-Holland' redevelopment.

Options

19. Your Committee can consider four options:

- i. **Dedication with no compensatory land:** In all cases under active consideration, your Committee could choose to dedicate the land to public highway without seeking compensatory land as has been the previous long-term practice prior to the adoption of the Land Retention Policy. Abandoning the principle of the Land Retention Policy is likely to undermine any future negotiations regarding compensatory land. **This option is not recommended.**
- ii. **Dedication on a 'like-for-like' 1:1 ratio replacement basis.** In all cases under active consideration, your Committee could choose to dedicate the land to public highway seeking compensatory land on an initial 1:1 replacement ratio without seeking a gearing mechanism at this stage. This approach would establish the principle of compensatory land and reflect the compensation code and other regulatory arrangements, such as the Town & Country Planning Act requirement to replace Open Space on a 'like-for-like' basis. **This option is recommended.**

- iii. **Maintain the Land Retention Policy approach of seeking a 1:10 gearing ratio on Highway dedications.** Officers would continue to promote the Trustee's view that Epping Forest Land is important and needs to be replaced at a higher ratio to reflect both its scarcity and historic loss. An unequivocal position is arguably necessary to set a clear precedent on any future highway dedications. This approach would exceed any compensation code or other regulatory arrangements, such as the Town & Country Planning Act requirement to replace Open Space on a 'like-for-like' basis. There is a risk that this Policy could lead to the exercise of Compulsory Purchase Order (CPO) powers to acquire land for road schemes. **This option is not recommended.**
- iv. **A reduction in the Land Retention Policy approach of seeking a 1:10 gearing ratio on Highway dedications to a figure above 1:1 but below 1:10.** Again, this approach would exceed any compensation code or other regulatory arrangements, such as the Town & Country Planning Act requirement to replace Open Space on a 'like-for-like' basis. There is a risk that this Policy could lead to the exercise of Compulsory Purchase Order (CPO) powers to acquire land for road schemes. **This option is not recommended.**

Proposals

- 20. It is proposed to revise the Land Retention Policy approach of seeking a 1:10 gearing ratio on Highway dedications replacing it with a 1:1 or 'like-for-like' approach to clearly signal the City Corporation's approach to land retention of scarce and protected Forest Land, to reflect existing compensatory codes and also to support co-operation with Highway and Traffic Authorities for schemes that will be beneficial to Forest communities and Epping Forest objectives.

Corporate Strategy Implications

Implications

- 21. **Legal** – Section 7(1.) of the Epping Forest Act 1878 states that '*the Conservators shall at all times keep Epping Forest unenclosed and unbuilt on, ...and they shall by all lawful means prevent, resist, and abate all future inclosures, encroachments and buildings, and all attempts to inclose, encroach, or build on any part thereof*'.
- 22. Section 38 of the Act which outlines the General powers of the Conservators includes at section (1)(iv.) a power '*To maintain and make roads, footpaths, and ways and to dedicate roads to the public, subject to the law of highways, and to afford facilities and grant rights of way for access to inclosures*'. There is therefore power to dedicate Forest Land for roads.
- 23. The power to acquire additional Forest Land under section 33.(1.)(xxvi.) of the Epping Forest Act 1878 is specifically limited to lands adjoining the Forest or reputed to have been formerly part of the waste lands thereof.

24. Any policy should retain the discretion of the Conservators to consider requests on a case-by-case basis having regard to the best interests of the charity. Any agreement must ensure that the City is not bound to agree future highway dedication requests, even if a land retention parcel has been transferred “in lieu” of future dedications. Each request would need to be considered on a case-by-case basis.
25. While section 14 of the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 specifically allows for the transfer of Public Open Space between Local Authorities some Local Authority Public Open Spaces may be inalienable being dedicated under the Open Spaces Act 1906 or through individual restrictive covenants.
26. The ratio requirement currently requested exceeds any compensation code or other regulatory arrangements, such as the Land Acquisition Act requirement to replace Open Space. There is a risk that this Policy could lead to the exercise of Compulsory Purchase Order (CPO) powers to acquire land for road schemes. The loss of goodwill and co-operation with the Highway and Traffic Authorities and the potential exercise of CPO powers would not be in the charity’s best interests and therefore a revised 1:1 compensatory approach of ‘no less in area and equally advantageous as the land taken’ is recommended.
27. Under section 19 of the Acquisition of Land Act 1981 the relevant Secretary of State would provide a certificate indicating his or her satisfaction that either:
- exchange land is being given which is no less in area and equally advantageous as the land taken (section 19(1)(a)); or
 - that the land is being purchased to ensure its preservation or improve its management (section 19(1)(aa)).
28. **Financial** – The cost of the Highway Improvement Schemes will be fully met by the relevant Highway Authority and will not place requirements on City Corporation capital or local risk budgets.
29. A 1:1 replacement ratio within the Land Retention Policy is unlikely to impose increased management costs, in that compensatory land would be managed at a similar level of cost. It is acknowledged that the transferring authority will enjoy an overall saving where public open space is transferred to the City Corporation and within large schemes this could be addressed where appropriate by a commuted sum. There may be additional costs where larger parcels of land are transferred in anticipation of further dedications or where a highways maintenance regime such as verge cutting is lost. These additional costs would need to be balanced alongside the policy ambition of arresting the overall loss of Forest Land.
30. **City of London Corporate Plan 2018 - 2023:** the protection of Epping Forest directly underscores the *third pillar* of the Corporate Plan, which is to “**shape outstanding environments**”. The policy approach outlined in this report supports Outcome 12 “Our spaces are secure, resilient and well-maintained”.

31. **Open Spaces Department Business Plan 2016-19:** The Strategic Vision of this Business plan is to 'Preserve and protect our world class green spaces for the benefit of our local communities and the environment.'

Conclusion

32. Highway Authorities are seeking to work in the best interests of Council tax payers by delivering value-for-money projects and services. The gearing ratio set out within the Land Retention Policy sets a clear standard for compensatory land in response to Highway dedication requests.
33. A robust policy is required to halt the loss of scarce Forest Land to continuing highway dedication and it is recommended that the ratio exchange is changed to 1:1 rather than 1:10 to reflect the compensatory codes contained within the Town and Country Planning and Land Acquisition Acts, which will also allow the City Corporation to work in effective partnership with Highway and Traffic Authorities.
34. For Highway Authorities who own land suitable for transfer to the City Corporation, other than legal fees, there are no costs to the Local Authority for providing compensatory land. The Authority would enjoy a small potential saving in grounds maintenance expenditure in the long-term. For authorities without access to suitable compensatory land, there will be an additional project cost to meet the purchase cost of suitable land for exchange. It is further proposed that where Local Authorities experience difficulties in acquiring suitable compensatory land suitable parcels of Buffer Land could be offered with the appropriate Committee approval.

Background Papers

Epping Forest & Commons Committee Land Banking Report November 2017

Paul Thomson

Superintendent of Epping Forest

T: 020 8532 5300

E: paul.thomson@cityoflondon.gov.uk