

MAYOR OF LONDON

Chloe Thomson
Strategic Planning and Regeneration
London Borough of Barnet
Barnet House
1255 High Road
Whetstone
London
N20 0EJ

Our ref: GLA/4421/VH/02
Your ref: 17/5761/EIA
Date: 29 May 2018

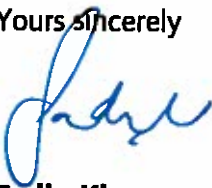
Dear Ms Thomson,

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008
Land at rear of 400 Edgware Road, Cricklewood
Local planning authority reference: 17/5761/EIA

I refer to your correspondence of 9 February 2018 informing me that Barnet Council is minded to approve planning permission for the above planning application. I refer you also to the notice that was issued on 23 May 2018 under the provisions of article 5(1)(b)(i) of the above Order.

Having now considered a report on this case I am content to allow Barnet Council to determine the case itself, subject to any action that the Secretary of State may take, and do not therefore wish to direct refusal or to take over the application for my own determination.

Yours sincerely



Sadiq Khan
Mayor of London

cc Andrew Dismore, London Assembly Constituency Member
Nicky Gavron, Chair of London Assembly Planning Committee
National Planning Casework Unit, DCLG
Lucinda Turner, TfL
David Cassells, GL Hearn Limited, 75 Wells Street, London, W1T 3QH

planning report GLA/4421/02

29 May 2018

Land at rear of 400 Edgware Road

in the London Borough of Barnet

planning application no. 17/5761/EIA

<p>Strategic planning application stage 2 referral Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008.</p>
<p>The proposal Use of land for the import of aggregates by rail and export of construction waste by rail.</p>
<p>The applicant The applicant is Barnet Council and DB Cargo (UK) Limited.</p>
<p>Key dates Stage 1 considered: 29 November 2017 Barnet Council Planning Committee: 8 February 2018</p>
<p>Strategic issues</p> <p>Principle of development: The principle of the rail freight facility is supported. Waste will be exported out of London to landfill sites; sufficient evidence has been provided to show that the destination sites have capacity to receive the construction waste exported from the site. DB Cargo will operate the freight route only, with individual waste contractors using the site. Notwithstanding the in-principle support, GLA officers are clear that the use of the site as a construction waste and aggregate transfer station site does not provide compensatory capacity for any of the existing waste sites to be redeveloped as part of the BXC masterplan.</p> <p>Transport: All issues have been resolved, the necessary conditions have been secured and the applicant has undertaken additional modelling to assess cumulative strategic impacts.</p> <p>Air quality: Supplementary documents have been provided and assumptions have been clarified. Measures to mitigate against dust dispersion and adverse air quality have been secured by condition or through the built form, including monitoring air quality levels and enclosing all stores during non-operational hours.</p> <p>Outstanding issues relating to urban design have been resolved.</p>
<p>The Council's decision In this instance Barnet Council has resolved to grant planning permission subject to conditions.</p>
<p>Recommendation That Barnet Council be advised that the Mayor is content for it to determine the case itself, subject to any action that the Secretary of State may take, and does not therefore wish to direct refusal, or that he is to be the local planning authority.</p>

Context

1 On 12 October 2017, the Mayor of London received documents from Barnet Council notifying him of a planning application of potential strategic importance to develop the above site for the above uses.

2 The application is referable under Category 2B of the Schedule to the Order 2008:

- Category 2B1: Waste development to provide an installation with capacity for a throughput of more than – (b) 50,000 tonnes per annum of waste produced outside the land in respect of which planning permission is sought; and
- Category 2B2: Waste development where the development occupies more than one hectare.

3 On 29 November 2017, the Mayor considered planning report D&P/4421/01, and subsequently advised Barnet Council that the application did not comply with the London Plan, but that the possible remedies set out in paragraph 43 of that report could address these deficiencies.

4 A copy of the above-mentioned report is attached. The essentials of the case with regard to the proposal, the site, case history, strategic planning issues and relevant policies and guidance are as set out therein, unless otherwise stated in this report. On 8 February 2018, Barnet Council (hereafter, the Council) resolved to grant planning permission in accordance with officer's recommendation, and on 5 April 2018, advised the Mayor of this decision. Under the provisions of Article 5 of the Town & Country Planning (Mayor of London) Order 2008 the Mayor may allow the draft decision to proceed unchanged, direct Barnet Council to refuse planning permission under Article 6, or issue a direction, under Section 2A of the Town and Country Planning Act 1990 in accordance with Article 7 of the 2008 Order, that he is to act as the local planning authority for the purpose of determining the application and any connected application.

5 The Mayor's decision on this case, and the reasons, will be made available on the GLA's website www.london.gov.uk.

Consultation stage issues summary

6 At the consultation stage Barnet Council was advised that, whilst the application was broadly supported in strategic planning terms, it did not comply with the London Plan for the following reasons:

- **Principle of development:** the use of the site for a construction waste and aggregate rail transfer station is supported in principle, subject to clarification of throughput assumptions and wider waste capacity discussions.
- **Urban design:** further information required on the pedestrian route across the site entrance on Edgware Road.
- **Air quality:** further information required, including: location of receptors for measuring impact on air quality; impact of dust emissions; traffic estimates and number of vehicle trips; and justification for open air storage.
- **Flood risk:** the proposed geocellular attenuation tanks, and retained drainage from hard landscaping, is acceptable

- **Transport:** air quality details are required in the supplementary environmental report; a road safety audit is required; details on how proposals link to wider pedestrian and cycling infrastructure improvements must be provided.

Strategic planning and guidance update

7 The draft London Plan was published for consultation on 1 December 2017 and should be taken into account on the basis described in the NPPF. The draft revised National Planning Policy Framework was published for consultation on 5 March 2018 and should be taken into account appropriately in accordance with its early stage of preparation.

Update

8 Since the Stage 1, GLA officers have engaged in discussion with the applicant, the Council and TfL to address the outstanding issues. Having regards to this, an assessment against the outstanding strategic issues raised at the consultation stage is set out below. Furthermore, as part of Barnet Council's decision, various planning conditions have been proposed to address the above concerns and to ensure that the development is acceptable in strategic planning terms.

Principle of development

Rail freight use

9 At consultation stage, the principle of the rail freight facility, for the importation of up to 1,000,000 t/pa of construction aggregates and the export of up to 510,000 t/pa of construction waste, was supported on the following grounds: it would safeguard a rail freight use on the site; it would comply with the wider aims of the BXC masterplan; it would not limit the implementation of the BXC masterplan; and would accord with London Plan policies on waste, aggregates and strategic rail interchanges. This in-principle support was, however, contingent upon additional information and clarifications.

10 The applicant has clarified the number of vehicle movements, confirming that the development will yield a maximum of 452 HGV movements per day, and this maximum limit is secured by condition. It is noted that this is a significant reduction when compared with the previous use of the site. Furthermore, the applicant confirmed the likely destinations of the aggregates imported to the site by rail, noting that they are likely to serve development sites within a 10-mile radius of the site.

11 The Council's committee report recognises the requirement to amend conditions 42.1 and 42.2, attached to the BXC outline masterplan planning permission, which specifically relate to the site and the nature of the rail freight facility. The mechanism for amending the planning application is not a material consideration for the present application.

Export of waste from the site

12 The applicant has confirmed that the construction waste exported from the site will be sent to landfill at either the Calvert site in Buckinghamshire or Sutton Courtenay site in Oxfordshire. In accordance with paragraph 9.7.5 of the draft London Plan, the applicant has provided evidence from the operator of these sites, confirming that they have capacity to accommodate waste exported from the RFF site. Based on current and future deposit rates, it was confirmed that Calvert has capacity for 510,000 t/pa for 20 years and Sutton Courtenay has capacity for 400,000 t/pa for 20 years; the total capacity of these landfill sites significantly exceeds the maximum annual quantum of waste that will be exported from the RFF site.

13 Draft London Plan S18 and London Plan Policy 5.16 seek to recycle 95% of construction, demolition and excavation waste by 2020. The proposals do not contribute to this target as waste

will be exported out of London. As it has been confirmed that the end destinations have capacity to absorb the RFF's waste, as required by the draft London Plan, and given that DB Cargo is a haulier rather than a waste operator itself, this is considered acceptable in this instance.

14 Condition 27, attached to the draft decision notice, requires a site management plan, which will include details of the operational processes to be carried out at the site and details regarding the management of other tenants. As part of the approval of details process, Barnet Council should ensure that the site management plan maximises opportunities to recycle waste and promote the circular economy, in line with the ambitions of the London Plan and draft London Plan.

Wider waste capacity in the BXC area

15 As noted at consultation stage, Condition 41.5 of the BXC masterplan states that none of the existing waste sites can be redeveloped until their capacity has been re-provided either within the Waste Handling Facility or at such other suitable site. A pending 'drop in' planning application (LPA ref: 17/6714/EIA, GLA ref: GLA/1496d) proposes to reduce the capacity of Waste Handling Facility, approved under the BXC masterplan, from 600,000 tonnes per annum (t/pa) to 260,000 t/pa. The total average throughput of the four existing waste sites is 294,854 t/pa (2013-2016). There would, therefore, be a shortfall of c. 35,000 t/pa should planning permission be granted for the Waste Handling Facility. The shortfall would then need to be made up on 'such other suitable site'. Whilst the wider waste capacity discussion is not directly relevant to the present application, it is important to note that GLA officers do not consider that the present site is suitable compensatory capacity for the existing waste sites as it does not re-provide any of the existing waste sites processing capacity and it does not contribute to enhancing London's waste infrastructure, in line with the draft London Plan.

Urban design

16 Following the Mayor's Stage 1 consultation response, the applicant has revised elements of the design in response to the wider consultation responses received. Additional screening is now proposed to be erected along plot 2 to reduce visibility from the site's entrance and Edgware Road and it is no longer proposed to place advertising on the site's entrance. The amendments are welcomed as they will further screen the site and limit its impact upon the surroundings; as such, all outstanding issues in relation to design have been resolved.

Transport

17 At consultation stage, TfL raised concerns regarding the junction between Edgware Road and the site entrance. Subsequently, the applicant provided a supplementary environmental report, independent Road Safety Audit and Technical report. These reports confirm that, whilst the number of HGVs visiting the site will increase by 181 movements per day, the number of light duty vehicle movements will be reduced by 1,053 movements per day. In addition to the reduction of these movements, various transport mitigation measures have been secured by the applicant through condition, including using Euro VI compliant vehicles, electric vehicle charging points and cycle parking, in accordance with London Plan and draft London Plan policies. To reduce chance of vehicles queueing on the A5, it is proposed to create a junction with access control set back.

18 In response to concerns regarding the strategic transport impacts of the scheme, when considered alongside the wider BXC redevelopment and the 'drop in' planning application at Geron Way, the applicant submitted modelling of the network traffic, covering the A5 corridor between Humber Road and Rail Freight Facility Access Junction. The model was based upon TfL strategic transport models for forecast years 2021 and 2031. The modelling indicated that the applicant's proposals for a priority junction with the A5 is compatible with the proposals for the wider regeneration. Therefore, all outstanding issues with regard to transport have been addressed.

Air quality

19 Since consultation stage, the applicant has provided a Supplementary Air Quality Technical Note, provided additional receptors and has clarified assumptions and data used within the application's modelling. Measures to mitigate against adverse air quality impacts have been secured by condition, including: monitoring the dust and PM₁₀ levels on the Railway Terraces to the south, with all data to be made available in 'real-time' on a public website; site-wide coverage by 'rain guns' to contain particulate within the site; securing 452 HGV movements as the maximum number of vehicle movements per day; and requiring all HGVs on-site to be Euro VI as a minimum.

20 The two stock piles at the north and the south of the site (plots 1 and 4) will be covered to mitigate dust and noise spreading from the site, whilst the two plots in the centre of the site (plots 2 and 3) will be uncovered. In recognition of the two open stock piles and to further mitigate against dust dispersal, condition 33 attached to the Council's draft decision notice requires that all stockpiles must be covered outside of the permitted operational hours, with details of the method for covering the stockpiles to be submitted and approved prior to the commencement of the transfer operations. It is considered that the outstanding issues relating to air quality have been satisfactorily addressed and/or monitored through planning conditions.

Response to consultation – initial consultation

Response from neighbours

21 The Council received 775 public representations from neighbours. Of the 775 responses, 772 objected to the proposals, 2 supported the proposal and 1 respondent neither supported nor objected to the proposals.

22 The primary reasons for objection are as follows:

- Principle of the development;
- Location of the proposed development;
- Impact upon the amenity of residents, including noise, air quality, vibration, lighting and mitigation measures
- Environmental impacts;
- Traffic and highway impacts
- Monitoring and enforcement of the use;
- Lack of consultation;
- Variance from the BXC masterplan outline consent; and
- Impact on heritage assets.

Response from statutory consultees and other organisations

- *Brent Council* – Objected to proposals due to impact on heavy goods vehicle traffic and the environmental impact of the proposed works.
- *Network Rail* – No objection, subject to inclusion of a number of informatives relating to future maintenance, drainage, plant and materials, scaffolding, piling, fencing, lighting, noise and vibration, and vehicle incursion.
- *Environment Agency* – No comment
- *National Grid* – No objections
- *Affinity Water* – No comment

- *Thames Water* – No comment
- *Lead Local Flood Authority* – Requested further information regarding surface water and foul water
- *Railway Terraces Residents Community Association* – Objected on the grounds that an aggregate and construction waste transfer facility is inappropriate in this location, with the following issues raised: operational hours; impact on air quality; impact of HGVs on local roads; impact upon quality of life; increased height of the railway line; vibration; water table; and noise.
- *Cricklewood Community Forum* – No comment
- *Cricklewood Neighbourhood Association* – No comment
- *Cricklewood Residents Association* – No comment
- *Brent Terrace Residents Association* – No comment
- *Brent Cross Consultative Access Forum* – No comment
- *Ministry of Housing, Communities and Local Government’s National Planning Casework Unit* – No comment
- *Brent Cyclists (Brent chapter of London Cycling Campaign)* – Objected on the grounds that proposals would be harmful and dangerous to cyclists and other vulnerable road users due to the number of heavy goods vehicles on the roads. The scheme would also increase air pollution.
- *Fordwych Residents Association* – Objected to the proposals on the following grounds: number of vehicle movements associated with use; increase in vehicle emission as a result of the vehicle movements; poor existing air quality; congestion; danger to pedestrian and cyclists; and reduction in overall quality of life locally.
- *Railway Terraces Allotment Society* – Objected on the grounds that the development is inappropriate and will have noise, light and air pollution impacts, with a minimum level of mitigation. Noted that the allotments have significant value for local wildlife and this has not been recognised in the application documents.
- *Rail Freight Group* – Supported the application on the grounds that proposals are essential to increasing the volumes of construction and waste materials transported to and from London by rail, which offers safer, greener, cleaner and low carbon solution to reduce congestion.
- *Freight on Rail (partnership of Campaign for Better Transport, the rail freight industry and transport trade unions)* – Supported the application as rail freight offers a safer, cleaner, low carbon solution to road freight, removes HGV vehicles from the road, lies in a suitable location, provides essential function for BXC regeneration area, operates suitable hours, meets demand for rail freight, accords with planning policy, create jobs and limits road infrastructure costs.

23 It is noted that, having considered the above consultation responses, Barnet Council has provided specific responses within its Committee Report. Having had regard to these, GLA officers are satisfied that the statutory and non-statutory responses to the Council’s consultation process do not raise any material planning issues of strategic importance that have not already been considered at consultation stage, and/or within this report.

Response to Barnet Council’s consultation – second consultation

24 Following the first round of consultation, the applicant revised various details and the Council conducted a second round of consultations, notifying all members of the public who had

commented on the initial consultation as well as re-consulting all statutory and non-statutory consultees.

Response from neighbours

25 Many residents who had submitted representations as part of the initial consultation, resubmitted their representation at this second round of consultation. There were, however, 103 additional representations, with the principle concerns replicating those raised in the initial consultation, discussed in paragraph 20.

Responses from statutory bodies and other organisations

- *National Grid* – No objection to the proposed development.
- *Camden Council* – Objected on amenity grounds, though noted that they support the proposals in principle.
- *Brent Council* – Objected on highways and environmental impact grounds, though noted that some concerns had been addressed following the submission of revised details.
- *Environment Agency* – No comment.
- *Lead Local Flood Authority* – No objection as previous comments relating to surface water and foul water had been addressed.
- *Fordwych Residents Association* – Upheld previous objection.
- *Dollis Hill Residents' Association* – Upheld previous objection.
- *Lidl* – Objected to the proposal on the grounds that had received no consultation or notification, but then withdrew their objection as concerns had been addressed through meeting with the applicant.
- *Mapesbury Residents' Association* – Object to proposals.
- *NorthWestTwo Residents' Association* – Object to proposals.

Responses to Mayor

26 The Mayor has directly received 9 written objections on the application from members of the public, 2 written objections from local councillors and 3 written objections from London Assembly Members.

Public representations and non-statutory organisations

27 The primary reasons for objection were as follows:

- Impact of the number of HGV movements on the local road network, including the existing congestion on Edgware Road;
- Air quality impacts, within an Air Quality Management Area (AQMA)
- Divergence from the parameters approved under the outline planning permission;
- Lack of consultation and failure to publish all objections within committee report;

London Assembly Members

- *Caroline Russell* – Objected to the proposals on the following grounds: committee voted in favour by a majority of one vote; transparency and objectivity; neighbouring boroughs of Brent and Camden have both objected to the proposals; the change in the

nature of the facility, from intermodal to aggregates / construction waste, was undertaken without public consultation; impact on well-being of residents in Barnet, Brent and Camden; air quality impacts; and traffic impacts.

- *Caroline Pidgeon* – Objected on the following grounds: slim majority, with councillors voting along ‘party lines’; transparency; objections raised from Brent and Camden Councils; scheme will impact the well-being and amenity of residents in Barnet, Brent and Camden; air quality impacts; and traffic impacts.
- *Navin Shah* – Objected to the proposals due to the impact upon noise, dust, traffic, pollution and quality of life.

Section 106 heads of terms

28 There is no section 106 agreement proposed for the planning application.

Article 7: Direction that the Mayor is to be the local planning authority

29 Under Article 7 of the Order the Mayor could take over this application provided the policy tests set out in that Article are met. In this instance, the Council has resolved to grant permission with conditions which satisfactorily addresses the matters raised at consultation stage. There are, therefore, no sound planning reason for the Mayor to take over this application.

Legal considerations

30 Under the arrangements set out in Article 5 of the Town and Country Planning (Mayor of London) Order 2008, the Mayor has the power to issue a direction under Article 7 that he is to act as the local planning authority for the purpose of determining the application. The Mayor may also leave the decision to the local authority. If the Mayor decides to direct that he is to be the local planning authority, he must have regard to the matters set out in Article 7(3) and set out his reasons in the direction.

Financial considerations

31 Should the Mayor direct refusal, he would be the principal party at any subsequent appeal hearing or public inquiry. Government Planning Practice Guidance emphasises that parties usually pay their own expenses arising from an appeal. Following an inquiry caused by a direction to refuse, costs may be awarded against the Mayor if he has either directed refusal unreasonably; handled a referral from a planning authority unreasonably; or behaved unreasonably during the appeal. A major factor in deciding whether the Mayor has acted unreasonably will be the extent to which he has taken account of established planning policy. Should the Mayor take over the application he would be responsible for holding a representation hearing and negotiating any planning obligation. He would also be responsible for determining any reserved matters applications (unless he directs the council to do so) and determining any approval of details (unless the council agrees to do so).

Conclusion

32 The strategic issues raised at consultation stage regarding the principle of development, urban design, transport and air quality have been satisfactorily addressed, and appropriate planning conditions have been secured. As such the application complies with the London Plan and draft London Plan, and there are no sound reasons for the Mayor to intervene in this case.

For further information, contact GLA Planning Unit:

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