

ROLFE JUDD
/ PLANNING

/ Churchfields Road

APPEAL STATEMENT

8th April 2025

/ Churchfields Road

London Electricity Board Depot Churchfields
Road Beckenham

P08389
8th April 2025

On behalf of Churchfield Road BR3 Limited

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01. INTRODUCTION

01.1 SUMMARY

- 01.1.1** This Statement of Case supports a planning appeal submitted on behalf of Churchfield Road BR3 Limited ("the Appellant") against the refusal by the London Borough of Bromley ("the Council") of a planning application made under reference 24/00815/FULL2 (the "Planning Application") for:

"Full application for the temporary (5 years) change of use from SUI Generis formed of an electricity undertaker's depot to a dual use of Class B8 (to provide a scaffolding equipment storage/distribution yard) and SUI Generis retaining the existing electricity undertaker's depot. Installation of 2 no. single storey cabins and CCTV/lighting. Retrospective. AMENDED DESCRIPTION TO INCLUDE STRUCTURES AND ADDITIONAL INFORMATION RECEIVED 27/08/24"

("the Appeal Scheme")

at the London Electricity Board Depot Churchfields Road Beckenham ("the Appeal Site")

(the "Appeal").

- 01.1.2** The application covering letter for the Appeal Scheme is included at Document [4] and a site plan of the Appeal Site at Document [9].
- 01.1.3** The Planning Application was submitted in February 2024. It was validated by the Council on 3 May 2024 and assigned the reference number 24/00815/FULL2.
- 01.1.4** The effect of the Appeal Scheme is to permit the temporary inclusion of a B8 scaffold yard use alongside the existing electricity undertaker's depot on the former vehicle service repair and MOT testing station part of the Appeal Site.
- 01.1.5** The Appeal Scheme will provide the reuse of a vacant industrial site within the Borough. The Appeal Scheme provides new local jobs and makes effective use of brownfield land as per the aspirations of the NPPF (2024). The scaffolding yard provides an important role throughout the Borough and Greater London by helping support the construction industry across the city.
- 01.1.6** The Appeal Scheme was determined under delegated powers by the Council on 17th October 2025. The Officers Delegated Report is enclosed at [Document 2]
- 01.1.7** The Council refused the Planning Application by a decision notice dated 17th October 2025 (the "Decision Notice"). A copy of the Decision Notice is included at [Document 3].
- 01.1.8** As part of the delegated decision, and as shown on the Decision Notice, only one reason for refusal was provided by the Council. This is clearly a generic reason, and we are of the strong view that it does not

accurately reflect the materials submitted to the Council or the discussions between the Appellant and Council prior to determination. The reason given is as follows:

I "Reason 1 – The proposal as set out in the application and currently in operation represents a significantly more intensive use of the site which has a detrimental impact on the general residential amenities of the area, resulting in additional noise and disturbance associated with the comings and goings to and from the site, as well as the activities upon the site itself, and insufficient information has been provided to demonstrate that the impact of the use on the residential amenities of the area and with regards to highways safety could be successfully mitigated and controlled. The proposal is thereby contrary to Policies 32, 37 and 119 of the Bromley Local Plan and Policies D3 and D14 of the London Plan."

01.1.9 From this reason we suggest that the issues truly arising are:

- (a) Noise associated with traffic movements arising from the Appeal Scheme.
- (b) Noise associated with the continued use of the Appeal Site for the Appeal Scheme; and
- (c) Highway Safety.

01.1.10 The Appellant requests that the Appeal be heard by way of an Inquiry. This is due to the complexity of the issues raised, which relate to transport and noise which are technical areas that are considered to require a detailed cross-examination of witnesses and evidence. This approach is especially important given the clear difference of opinion between the consultants on behalf of the Appellant and the LPA officer team, and the lack of common ground, notably on the topic of noise.

01.1.11 We believe that the need for the Inspector to sufficiently understand the technical evidence is alone sufficient reason to necessitate an Inquiry.

01.1.12 In any case, there has also been significant public interest in the Appeal Scheme. This creates a realistic expectation that other parties may seek to gain Rule 6 status. An inquiry is also an appropriate means for these parties to be able to express their view.

01.1.13 This appeal is submitted in conjunction with an appeal against an enforcement notice issued by the Council in relation to a breach amounting to development matching the description of development under reference 23/00705/OPDEV, dated 11th March 2025 (the "Enforcement Notice"). We expect that it will be agreed between the Appellant and the Council that the alleged breach of planning control contained therein is the same use that would have authorised by a planning permission granted pursuant to the Planning Application.

01.1.14 The Appellant is precluded from appealing the Enforcement Notice on ground (a) given that it forms development for which permission was sought in the preceding two years. This is a recent change in the law, see s.174(2A) Town and Country Planning Act 1990, as substituted by s.118 of the Levelling-up and Regeneration Act 2023:

"(2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—

- (a) the land to which the enforcement notice relates is in England, and
- (b) the enforcement notice was issued at a time after the making of an application for planning permission that was related to the enforcement notice."

and the Planning Inspectorate Procedural Guide: Enforcement notice appeals – England (Updated 12 September 2024), at paragraph 4.2 which states that:

"Where an enforcement notice is issued on or after 25 April 2024, no appeal under ground (a) may be made within two years of the date on which the related application ceased to be under consideration"

- 01.1.15** If ground (a) was available to the Appellant it would have appealed on this ground on the same basis that it appeals the Refusal, and that the Appeal Scheme should have been granted permission.
- 01.1.16** Without prejudice to the above, the Appellant also appeals the Enforcement Notice on grounds (e), (f) and (g).
- 01.1.17** We also note that the Enforcement Notice does not raise any issues with highway safety as suggested by the reason for refusal mentioned above. Nor does the Enforcement Notice mention Policy 32 ('Highway Safety') of the Bromley Local Plan.
- 01.1.18** We therefore fully expect the Council to agree with us that the Appeal Scheme does not raise matters of highway safety and can therefore agree that there are no transport or highway issues associated with the Appeal Site, nor is the Appeal Scheme a breach of Policy 32 of the Local Plan.
- 01.1.19** Until such position is agreed with the Council, the Appellant has included such issues in its grounds of appeal (see section 6) and supporting technical information.
- 01.1.20** We further anticipate that it will be agreed between the Appellant and the Council that the Council would not have issued the Enforcement Notice had the Appeal Scheme been granted planning permission and that the same matters are arising. We therefore suggest that it would be most expedient for these appeals be co-joined and considered simultaneously by the same Inspector during a single Inquiry.

01.2 SUPPORTING APPEAL DOCUMENTATION

- 01.2.1** This Statement of Case should be read in conjunction with the following additional documents, which accompany the Appeal:

ENCLOSURE	CONTENTS
1	Application Form
2	Delegated Officers Report
3	Decision Notice

4	Combined Record Set of the information submitted for the Appeal Scheme
5	Combined Record Set of the information submitted during determination of the Appeal Scheme
6	Watermans Noise Assessment
7	SLR Transport Rebuttal
8	Enforcement Notice 23/00705/OPDEV
9	Site Location Plan
10	Copy of Lease for the Appeal Site
11	Draft Statement of Common Ground
12	LB Bromley Highways Comments during determination
13	LB Bromley EHO Comments during determination
14	Existing Site Plan

02. THE APPEAL SITE AND SURROUNDING CONTEXT

02.1 THE APPEAL SITE - DESCRIPTION AND LOCATION

- 02.1.1** The Appeal Site comprises land situated in southeast London within the London Borough of Bromley.
- 02.1.2** For a detailed analysis of the existing site, the planning history and surrounding context, please see the covering letter to the Planning Application for the Appeal Site [Document 4].
- 02.1.3** The following images show the evolving condition of the Appeal Site since remediation works were undertaken in 2013.



Image 1 - Site Condition Pre-remediation, September 2013



Image 2 – Site Condition Post Remediation, October 2013



Image 3 - Ariel Image of the site dated, late 2021



Image 4 – Site Condition prior to Appeal works commencing, August 2022

02.2 PLANNING HISTORY AND LAWFUL USE

- 02.2.1** In 1992 planning permission was granted under reference 92/00337/FUL for the change of use from electricity undertakers depot to electricity undertakers depot and vehicle service repair and MOT testing station (the "1992 Approval").
- 02.2.2** The permission required the cessation of the servicing, testing, repairing and storing of vehicles other than those owned by or belonging to London Electricity PLC on or before 1st May 1994, and that the night trunking operation involving the use of 2 x 30 tonnes maximum length drawbar units would only access the application site between 0730 and 1730.

- 02.2.3** This permission established a more intensive B2 industrial use on site. This B2 use was more intensive than the perceived intensification of the site under B8 as part of the Appeal Scheme. The planning permission authorised B2 use to undertake noisy and polluting aspects beyond that of the relatively light scaffolding use. The Council has provided no clear rationale why the previous intensification of the site under B2 and the 1992 permission was acceptable and the Appeal Scheme, is not acceptable.
- 02.2.4** Under reference 13/01555/PLUD a certificate of lawfulness for proposed remediation of contaminated land and removal of waste and contaminated material was granted. The site location plan submitted with the application was consistent with that submitted with this Appeal Scheme.
- 02.2.5** We therefore consider that the 1992 planning permission is the extant approval for the site and authorises the Sui Generis uses as a substation and associated electrical undertaker works. In the event the Appeal is dismissed this UKPN use will continue to operate under the 1992 planning permission. Therefore the existing use of part of the Appeal Site by UKPN forms part of the baseline scenario to which the Appeal Scheme is considered against.
- 02.2.6** The Appeal Site is not allocated in the Local Plan and is therefore a non-designated industrial site in accordance Paragraph 6.4.1 of the London Plan (2021) definition below (with emphasis added):

*"London depends on a wide range of industrial, logistics and related uses that **are essential to the functioning of its economy and for servicing the needs of its growing population**, as well as contributing towards employment opportunities for Londoners. This includes a diverse range of activities such as food and drink preparation, creative industry production and maker spaces, vehicle maintenance and repair, building trades, construction, waste management including recycling, transport functions, **utilities infrastructure**, emerging activities (such as data centres, renewable energy generation and clean technology) and an efficient storage and distribution system which can respond to business and consumer demands."*

03. CORRESPONDENCE WITH THE LOCAL PLANNING AUTHORITY

03.1 PRE-APPLICATION ADVICE

03.1.1 In accordance with an application of this nature and scale, pre-application advice was not sought from the Council.

03.2 DURING DETERMINATION OF THE APPEAL SCHEME

03.2.1 Several comments were received by the Appellant from the Council and other statutory consultees in relation to the information submitted. A summary of the comments is contained within [Document 11].

03.2.2 Of note, on 15th May 2024 the Council's Highways Officer provided a comprehensive of the assessment of the Appeal Scheme from a transport perspective [Document 12]. These comments concluded that the "trip attracting potential of the proposed development is not significant and will therefore not lead to a severe impact on the adjacent transport network" (emphasis added). Aside from the receipt of public objections, no further concerns were raised by the Council in respect of highway matters.

03.2.3 Comments were also received by the Council's Principal Environment Health Officer on 06th June 2024 setting out a series of additional information requests [Document 13]. These comments sought additional information about the technical noise assessment undertaken for the site as well as a query regarding the location of the cabins and structures on site.

03.2.4 In August 2024 the Council set out its initial position regarding the acceptability of the scheme. This included requests for additional information to support the Appeal Scheme.

03.2.5 The request for further information included:

- Biodiversity Net Gain – Clarification that the scheme meets the criteria for exemption as it does not impact a priority habitat of more than 25m² or 5 meters of linear habitat.
- Transport Comments – Additional information regarding transport, provided beyond the comments received from the LPA and to assist with a local determination (See para 3.3.2).
- Site Boundary – Clarification on the site boundary.
- Plans to show cabins, structures – As requested by the LPA; and
- CCTV / Lighting – Clarification that the CCTV and lighting faces inwards and does not impact neighbours.

03.3 SUBMISSION OF FURTHER INFORMATION

- 03.3.1** In August 2024 the Appellant dutifully submitted additional information in response to the Council's request [Document 5]. The amended information addressed several comments received from the Council during the consultation of the Appeal Scheme and to ensure validation of the application. It should be noted that no formal amendments were made to Appeal Scheme.
- 03.3.2** In addition, the Appellant submitted a Transport Note prepared by SLR to assuage concerns of objectors and further demonstrate the lack of harm (Document 5).

03.4 DELEGATED DECISION

- 03.4.1** The Appeal Scheme was determined under Delegated Powers by the Council on October 17th, 2024. The Delegated Report highlighted the following issues:
- / Highways Safety - It said that a road safety audit would be required to consider the concerns raised by local residents.
 - / Highway Impact - No objections were raised in relation to the impact on the adjacent transport network. Highway officers considered appropriate a condition limiting the number of on-site staff to 7 and the hours of operation being restricted to avoid overlapping with the school drop-off and pick-up times specifically between 8:00 and 9:00 am and 2:30 and 3:30 pm.
 - / Acoustics EHO Comments - Final comments from a technical Environmental Health perspective raised objections to the proposals. Concerns were raised by Environmental Health officers of the potential impacts from the B8[?] use. They recommended refusal on the basis that the noise could not be controlled by condition and that the impact of vehicle movements had not been addressed.
 - / Land Use – The LPA agreed that while the appeal site lies within a predominantly residential area, the site itself is acknowledged to form a long-established non-residential site, as well as to be connected in terms of the main access from Churchfields Road with the nearby Borough waste site. As such the land use was agreed as being acceptable.
 - / Visual Impact –
 - o The nature of the site, the significant boundary fencing and the location of the site relative to the neighbouring waste site and alongside the railway line, and the established use of the site and structures associated with the existing/authorised sui generis use of the site were acknowledged. Therefore, it was not considered that the installation of the reasonably modestly sized amenity cabins to provide staff accommodation during working hours has had a detrimental impact on the wider visual amenities of the area.

- It was accepted that the scaffolding racks are large and high and are not of any particular design quality in terms of their external appearance but are considered consistent with and legible in the context of the wider use of the site.
- They also noted that they have been sited with significant separation to the nearest residential dwellings and taking all of this into account it is not considered that the on-site structures and associated operational development is visually harmful or detrimental to the wider visual amenities of the area.
- / Acoustic Policy Considerations - It was considered that insufficient information had been provided to demonstrate that the noise and disturbance would not be intrusive or harmful to residential amenity. The use of conditions to attempt to mitigate the impact have been carefully considered. However, while it may be possible to impose conditions which would limit the scope of the use and the fundamental hours of use during the week, a condition relating to noise management would not, it is considered, be sufficient to avoid instances where the noise and disturbance associated with the loading and unloading of the lorries would cause harm to neighbouring residential amenity. Similarly, while there is some information within the application on the comings and goings associated with the use and the use of the vehicular access/manoeuvres on the site, it is not sufficient to safeguard neighbouring amenity and avoid unacceptable and unneighbourly noise and disturbance.
- / Biodiversity Net Gain – It was agreed that the Appeal Scheme would be exempt from a Biodiversity Gain Condition, by reason of the *de minimis* exemption.
- / Conclusion – It then concluded that:
 - The proposal has a detrimental impact on the general character and amenity of the area, including residential amenity, and the intensification of the use of the access road by large vehicles coming and going coincides at present with the busiest periods of use of the immediate street/pavement as a consequence of the site's location relative to the nearby primary school.
 - Insufficient information had been provided to demonstrate that the use of the site would be acceptable in terms of road safety, and that the use of conditions would not be reasonably capable of mitigating the impacts on pedestrians and the adjacent highway, or upon neighbouring residential amenity owing to the nature of the use and the vehicle movements associated with it.

04. THE APPEAL SCHEME

04.1 DESCRIPTION OF APPEAL SCHEME

04.1.1 The description of development for the Appeal Scheme is:

Full application for the temporary (5 years) change of use from SUI Generis formed of an electricity undertaker's depot to a dual use of Class B8 (to provide a scaffolding equipment storage/distribution yard) and SUI Generis retaining the existing electricity undertaker's depot. Installation of 2 no. single storey cabins and CCTV/lighting. Retrospective. AMENDED DESCRIPTION TO INCLUDE STRUCTURES AND ADDITIONAL INFORMATION RECEIVED 27/08/24

04.1.2 In summary, the Appeal Scheme seeks planning permission for a change of use from electricity undertaker's depot and vehicle service repair and mot testing station to a dual use of Class B8 and SUI Generis in the form of the existing electricity undertaker's depot and scaffolding yard.

04.1.3 In practice, this would not change the electricity undertaker depot but would replace the vehicle repair garage (per the 1992 Permission) with a simple B8 use as a scaffold site.

04.1.4 This change of use will help facilitate the current new operation of the site which commenced recently and is formed of a scaffolding equipment storage yard. It is used solely for this purpose and would be a use falling squarely within the definition of non-designated industrial site (Paragraph 6.4.1 of the London Plan (2021)) as well as falling within B8 Use Classes.

04.1.5 The Appeal Scheme maintains the existing site access and seeks a new site cabin for office space associated with the use, as well as scaffolding racks. No additional vehicular or cycle parking is proposed, however, the hardstanding on the site for parking and access will be retained.

04.1.6 An Existing Site Plan [Document 14] showing the latest site layout is enclosed as part of the Appeal.



Image 5 – Masons Scaffolding current use of the Appeal Site



Image 6 – Masons Scaffolding current use of the Appeal Site

05. PRINCIPAL PLANNING POLICIES

05.1 INTRODUCTION

05.1.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The adopted Development plan documents relevant to the Application Site are as follows:

/ The London Plan (2021) (LP)

/ The Bromley Local Plan (2019) (BLP)

/ National Planning Policy Framework (NPPF). At the date of determination, the December 2024 NPPF was the applicable policy.

05.1.2 The NPPF has a presumption in favour of sustainable development (Paragraph 11). It requires that, in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. This means that development which is sustainable should be approved without delay.

05.1.3 The relevant NPPF Paragraphs and Policy are referred to within the following Grounds of Appeal (see Section 6).

05.2 THE LONDON PLAN (2021)

05.2.1 The London Plan is the statutory Spatial Development Strategy for Greater London prepared by the Mayor of London ("the Mayor") in accordance with the Greater London Authority Act 1999 (as amended) ("the GLA Act") and associated regulations. The policies and guidance within the London Plan (LP) are consistent with both national and local objectives in terms of the need to promote sustainable forms of development.

05.2.2 The Decision Notice only refers to two London Plan policies in the reasons for refusal, policies D3 and D14 of the London Plan.

POLICY D3 OPTIMISING SITE CAPACITY THROUGH THE DESIGN-LED APPROACH

05.2.3 Policy D3 sets out the London Plan approach to ensure that development and land is appropriate to the local requirements and area. The policy explicitly states that all development must make the best use of land by following a design-led approach that optimises the capacity of sites.

05.2.4 Policy D3 is clear that optimising site capacity means ensuring that development is of the most appropriate form and land use for the site.

- 05.2.5** While no specific aspects of the Policy are cited in the Delegated Report it is assumed that Part 9 is being referred to, which states development must help prevent or mitigate the impacts of noise and poor air quality.
- 05.2.6** Paragraph 3.3.1 provides context to how Policy D3 should be implemented. Of note it states that for London to accommodate the growth identified in this Plan in an inclusive and responsible way every new development needs to make the most efficient use of land by optimising site capacity. This means ensuring the development's form is the most appropriate for the site and land uses meet identified needs.
- 05.2.7** Paragraph 3.3.9 also provides context on Part 9 of the policy stating that measures to design out exposure to poor air quality and noise from both external and internal sources should be integral to development proposals and be considered early in the design process.

POLICY D14 NOISE

- 05.2.8** Policy D14 sets out the London Plan approach to mitigating the impact of noise. The Policy explicitly sets out that in order to reduce, manage and mitigate noise to improve health and quality of life, residential and other non-aviation development proposals should manage noise citing the following key aspects relevant to the Appeal Scheme:
- / 1) avoiding significant adverse noise impacts on health and quality of life
 - / 2) reflecting the Agent of Change principle as set out in Policy D13 Agent of Change
 - / 3) mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development without placing unreasonable restrictions on existing noise-generating uses [...]
 - / 6) where it is not possible to achieve separation of noise-sensitive development and noise sources without undue impact on other sustainable development objectives, then any potential adverse effects should be controlled and mitigated through applying good acoustic design principles
 - / 7) promoting new technologies and improved practices to reduce noise at source, and on the transmission path from source to receiver.
- 05.2.9** Paragraph 3.14.1 of the supporting text sets out that managing noise includes improving and enhancing the acoustic environment and promoting appropriate soundscapes. This can mean allowing some places or certain times to become noisier within reason, whilst others become quieter. The supporting text goes further to state that the consideration of existing noise sensitivity within an area is important to minimise potential conflicts of uses or activities. The policy expressly identifies that boroughs, developers, businesses and other stakeholders should work collaboratively to identify the existing noise climate and other noise issues to ensure effective management and mitigation measures are achieved in new development proposals.

POLICIES E4-E7 EMPLOYMENT

- 05.2.10** While not cited within the reason for refusal it is considered that Policies E4-E7 are also relevant to the Appeal Scheme. These policies within the London Plan seek to promote and protect employment and industrial sites within London adding specific protecting to Non-Designated Industrial Sites such as the Appeal Site. Policy E4 explicitly states that the retention, enhancement and provision of additional industrial capacity on Non-Designated Industrial Sites should be planned, monitored and managed to help support London's overall demand.

05.3 BROMLEY LOCAL PLAN 2019

- 05.3.1** The Bromley Local Plan (LLP) was adopted on January 2019. Please see the planning covering letter [Document 4] submitted with Appeal Scheme for all relevant development plan policies.
- 05.3.2** The Reason for Refusal cites Policies 32, 37 and 119 of the Local Plan in supporting the decision. These policies are summarised below for reference.

POLICY 32 ROAD SAFETY

- 05.3.3** Policy 32 sets out the Council's approach to Road Safety noting that development impacts on road safety should ensure it is not significantly adversely affected. The supporting text highlights that where a proposal may have a detrimental effect on the safety of all users, measures to remove that potential risk should be agreed with the Council.

POLICY 37 GENERAL DESIGN OF DEVELOPMENT

- 05.3.4** No specifics are given with regards to the reason for refusal however given the general nature of the policy it is assumed the concerns relate to Part E. Part E requires that all new development must respect the amenity of occupiers of neighbouring buildings and those of future occupants, providing healthy environments and ensuring they are not harmed by noise and disturbance.
- 05.3.5** Paragraph 5.07 sets out that the design of new development should safeguard public amenity and improve the quality of life in the borough with new development relating well to the character of its surroundings.

POLICY 119 NOISE POLLUTION

- 05.3.6** Policy 119 sets out that in order to minimise adverse impacts on noise sensitive receptors, proposed developments likely to generate noise and or vibration will require a full noise/vibration assessment to identify issues and appropriate mitigation measures.
- 05.3.7** The supporting policy for the text sets out how the Council is sought to formulate its approach to noise as well as the detailed background information on how impact is assessed. Of note the paragraph states that the industry guidance including guidance issued by the Institute of Acoustics in addition to British Standards such as BS8233:2014 and BS4142:2014 should be referred to when assessing impact.

06. GROUNDS OF APPEAL

06.1 SUMMARY

- 06.1.1** The Council identifies only one reason for refusal in the Decision Notice for the Appeal Scheme relating to the impact on the general residential amenities of the area.
- 06.1.2** This Statement of Case focusses primarily on the reason for refusal but identifies those development policies which the Appeal Scheme accords with. These policies provide benefits which a determining authority must give weight to when considering the effects of the Appeal Scheme.

06.2 DEVELOPMENT PLAN

- 06.2.1** Section 38(6) of the Planning and Country 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."

06.3 NOISE

- 06.3.1** The Decision Notice states that "additional noise and disturbance associated with the comings and goings to and from the site, as well as the activities upon the site itself, and insufficient information has been provided to demonstrate that the impact of the use on the residential amenities of the area".
- 06.3.2** The Delegated Report for the Appeal Scheme states: "Final comments from a technical Environmental Health perspective raise objections to the proposals. Significant concerns continue to be raised by officers from an environmental health perspective regarding the potential impacts from the use. It is noted (by the EHO) that these concerns are supported by the evidence supplied by neighbouring residents. It is not considered that the handling of scaffold is something that could reasonably be controlled by way of condition to avoid adverse impact to neighbouring residents, and the issue of vehicles leaving the site during noise-sensitive hours has not been addressed. It is therefore recommended that planning permission be refused."
- 06.3.3** Without access to these detailed comments, it is not possible to answer any remaining items the Council refer to. Nevertheless, the Appellant has commissioned a new Acoustic Report [Document [6] to assess the site based on the current operation (as opposed to predicted) within the context of Policies D14 of the London Plan and 119 of the Bromley Local Plan.
- 06.3.4** NPPF Paragraph 187(e) states that new planning policies and decisions should prevent new and existing development from contributing to unacceptable levels of noise pollution. Paragraph 198(a) states that planning policies and decisions should mitigate and reduce to a minimum potential adverse impact resulting from noise

from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

06.3.5 London Plan Policy D14 states that development proposals should manage noise by:

- / 1) avoiding significant adverse noise impacts on health and quality of life.
- / 2) reflecting the Agent of Change principle as set out in Policy D13 Agent of Change
- / 3) mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development without placing unreasonable restrictions on existing noise-generating uses [...]
- / 6) where it is not possible to achieve separation of noise-sensitive development and noise sources without undue impact on other sustainable development objectives, then any potential adverse effects should be controlled and mitigated through applying good acoustic design principles; and
- / 7) promoting new technologies and improved practices to reduce noise at source, and on the transmission path from source to receiver.

06.3.6 Local Plan Policy 119 states that in order to minimise adverse impacts on noise sensitive receptors, proposed developments likely to generate noise and or vibration will require a full noise/ vibration assessment to identify issues and appropriate mitigation measures. The Policy also provides context on how the impact of noise should be assessed.

06.3.7 A BS4142 assessment has been undertaken of the operations undertaken on the Appeal Site. The assessment is based on baseline noise measurements undertaken by Clements Acoustics prior to the operation of the scaffolding equipment storage/distribution yard and source noise measurements at the Site undertaken by Waterman Infrastructure & Environment (WIE). This has been further informed by baseline noise measurements undertaken by WIE covering the weekend period outside of operation of the scaffolding equipment storage/distribution yard.

06.3.8 The baseline survey undertaken by Clements Acoustics established a background sound level of 42dB(A) during the operational hours of the facility and 30dB(A) during the night-time period. Additional baseline noise measurements by WIE established a background sound level of 40dB(A) during the daytime weekend period. It is against these background sound levels that the BS4142 assessment has been undertaken.

06.3.9 The original BS4142 assessment undertaken by Clements Acoustics was based on a diesel-powered forklift truck ("FLT") and measurements conducted at a different scaffolding facility. The revised BS4142 assessment undertaken by WIE is based on current actual operations at the Site which includes the use of 2 electric FLT's. With regard to HGV movements, WIE have used historic data taken at an industrial recycling facility as it was only possible to measure by-pass event from a 1 tonne LGV flatbed vehicle at the time of the survey.

- 06.3.10** The nearest sensitive receptors to the Site are houses on Clock House Road located east of the railway line and houses on Churchfields Road. At Clock House Road the dominant source is rail noise whereas at Churchfields Road the dominant source is road traffic noise together with noise from Churchfields Re-Use & Recycling facility (immediately adjacent to the Appeal Site). Noise from the Re-Use and Recycling facility which uses a JCB to move material and crush it down into skips was clearly discernible at the Appeal Site.
- 06.3.11** The assessment covered the 4 operational periods:
- / Vehicle movements between 06:30-07:00 Monday to Friday (max of 3 vehicles in 15 minutes) – None to negligible impact.
 - / Yard operations Monday to Friday 07:00-18:30 (includes max of 4 vehicle movements in 1-hour) – None to negligible at Churchfields Road and negligible to small impact at Clock House Road. This assumes localised screening provided around cut-saw bench which is now in place on site.
 - / Outside of operational hours' time-sensitive works 22:00-05:00, (1 LGV/HGV movement in a 15-minute period, no yard operations). Negligible impact at Clock House Road and negligible to small impact at Churchfields Road.
 - / Weekend works loading LGVs/HGVs, Saturday 07:30-16:00 and Sunday 08:00-13:00 (Same hours as Re-Use & Recycling facility). None during loading operations at the weekend.
- 06.3.12** With regard to LAFMax levels during the night-time period, at the nearest receptor to the access road there is the potential for WHO criteria of 45dB LAFmax to be exceeded (+4dB) in a bedroom facing the road with an open window. This would only occur a maximum of 4 times and is comparable to that window's current exposure from HGVs moving along Churchfields Road during the night-time period. At Clock House Road this is not predicted to be exceeded.
- 06.3.13** It should be noted that the BS4142 assessment results are comparable to that established by Clements Acoustics, essentially a low impact when context is taken into account.
- 06.3.14** In conclusion, the BS4142 assessment shows that (taking account of the prevailing noise levels, predicted sources noise levels at receptor locations based on noise measurements of current operations on-site, with provision of localised screening around the cut-saw bench, which in any case is used infrequently) the B8 use does not adversely affect the existing residential amenity of the area.
- 06.3.15** It is therefore the Appellant's case that the Appeal Scheme accords with Policies 37 and 199 of the Bromley Local Plan and Policy C14 of the London Plan as it does not result in a detrimental impact on residents' amenity.

06.4 TRANSPORT

- 06.4.1** As set out above at paragraph 1.1.18 the Enforcement Notice does not raise any issues with highway safety contrary to the suggestions in the reason for refusal. Nor does the Enforcement Notice mention Policy 32 of the Bromley Local Plan. As such it is considered that all parties agree there are no transport issues associated with the site nor a breach against policy 32 of the Local Plan.
- 06.4.2** Unless or until the Council formally agree that there are no transport and highway matters arising from the Appeal scheme, the Appellant as a responsible landowner commissioned experienced highway consultants to further assess the transport issues purported to arise.
- 06.4.3** The NPPF requires development to:
- / consider its impact upon road safety, which is a key component of the amenity of a road; and,
 - / ensure the roads that serve it function efficiently to get everyone around, taking into account the respective of all its potential users.
- 06.4.4** The Council's reason for refusal while general, only cites policy related to road safety as opposed to highway impact. It is therefore considered that any transport concerns relate to road safety, not highway impact.
- 06.4.5** Policy 32 of the Bromley Local Plan sets out the expectation that the Council will consider the potential impact of any development on road safety and will ensure that it is not significantly adversely affected. This is reflected within the commentary as part of the Delegated Officers Report which highlights *“from a highways perspective that on the basis of the significant concerns over the road safety implications of the operation of the use relative to the proximity of the site to the local primary school it would be reasonable to request a safety audit”*
- 06.4.6** A Road Safety Audit was not requested by the Council prior to determination, and it is not standard practice to require one for operational development, but to demonstrate that no road safety issues arise, this appeal is accompanied by an independent Road Safety Audit (the "RSA"), which was undertaken by Gateway-TSP in accordance with the requirements of GG119 of the Design Manual for Roads and Bridges.
- 06.4.7** The RSA did not identify any safety concerns associated with the Churchfields Road/Site Access Road junction. This conclusion follows a site visit and assessment of the levels of traffic that use this junction including the Appeal Scheme, the Council's recycling centre and London Electricity Board site.
- 06.4.8** London Plan Policy T4 requires transport assessments to be submitted with development proposals to ensure that impacts on the capacity of the transport network (including impacts on pedestrians and the cycle network), at the local, network and strategic level, are fully assessed. Local Plan Policy 31 similarly requires that development proposals are accompanied by a Transport Assessment and Travel Plans which show the likely impacts on trip generation.

- 06.4.9** During the determination of the Planning Application, the Council's Highway Officers accepted that the level and type of vehicle movements would not exceed the central transport planning tests of the National Planning Policy, which informs and underpins both the London Plan and Local Plan. They specifically concluded that "trip attracting potential of the proposed development is not significant and will therefore not lead to a severe impact on the adjacent transport network".
- 06.4.10** The Appeal is also accompanied by a Technical Note prepared by SLR which corroborates the evidence submitted in support of the application. Namely, that the Appeal Scheme would be (and patently is) very lightly trafficked. Indeed, less than 10% of all daily movements on the site access road are attributable to the scaffold yard, with the majority of these occurring across the day outside of the usual peak travel periods and school drop off and pick up times. Equally, the SLR note shows through reference to video evidence and industry standard vehicle tracking software that the types of vehicles that are associated with the scaffold yard are able to safely access the yard from Churchfields Road.
- 06.4.11** It is therefore the Appellant's view that the Council's highway officer's professional opinion was accurate, is supported by the evidence, and that it was incorrect to suggest that the activity of a scaffold yard at the Appeal Site would be contrary to transport policies.
- 06.4.12** It is therefore the Appellant's case that the Appeal Scheme accords with Policy 32 of the Bromley Local Plan and Policies, T2, T5 and T6 of the London Plan as it ensures adequate and safe passage for use the access road and Churchfield Road for pedestrians, cyclists and other road users.
- 06.4.13** Notwithstanding the clear policy compliance of the scheme from and as a neighbourly landowner, the Appellant is willing to provide and commit to a Delivery and Service Plan (the "DSP") for the scaffold yard.
- 06.4.14** As outlined in the SLR Technical Note, the DSP would likely include:
- / A routing plan that would require all HGVs to travel to and from the east of the Appeal Site to ensure that vehicles do not pass the HGV entrance to the recycling centre or pass the school.
 - / A restriction on the maximum size of HGV able to access the site; and
 - / A restriction on any HGVs movements to or from the Appeal Site between the hours of 15:15 and 15:45 to avoid school pick up times.
- 06.4.15** The DSP would then be secured by a simple planning condition.

06.5 NPPF AND OTHER RELEVANT MATTERS

- 06.5.1** The "Building the Homes We Need Statement" made by the Secretary of State for Housing, Communities and Local Government on 30 July 2024 outlines the government's position that sustained economic growth is the only route to improving the prosperity of our country and the living standards of working people.

- 06.5.2** The Appeal Scheme is the revitalisation of a vacant brownfield site, previously in B2 use, and recently been left to provide no net benefits to the community and local area with a proposed B8 use providing direct full-time employment on the Appeal Site. The Appeal Scheme also provides wider benefits in the borough and throughout London. It is clear the economic benefits of the proposed use outweigh the previous use of the site.
- 06.5.3** The reason for refusal does not refer to the NPPF however it is a material consideration for the decision making of the Council.
- 06.5.4** NPPF para 11 states that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means *inter alia* "approving development proposals that accord with an up-to-date development plan without delay."
- 06.5.5** For the reasons set out in this Statement it is apparent that the Appeal Scheme fully complies with the adopted Bromley Local Plan and London Plan.
- 06.5.6** Paragraph 85 states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.
- 06.5.7** The Appeal Scheme supports the economy of the Borough and London as a whole. The Appeal Site is an underused non-designated industrial site in the Borough. By making effective use of the land, the Appeal Scheme supports the objectives of the Council in supporting economic growth in this area.
- 06.5.8** Paragraph 115 of the NPPF states in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:
- / a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location.
 - / b) safe and suitable access to the site can be achieved for all users.
 - / c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and
 - / d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 06.5.9** Paragraph 116 identifies that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 06.5.10** As demonstrated within the supporting Transport Assessment [Document 7], which was accepted by the Council, there would be no severe harm to the highway network. It is therefore clear that the Appeal Scheme meets the tests set out within the NPPF.
- 06.5.11** Paragraph 124 states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
- 06.5.12** The Appeal Scheme makes effective use of brownfield land. The environmental and transport effects of the increased use of the Appeal Site have been assessed by the Appellant and considered to be acceptable. The scheme was considered to not have a significant effect on transport movement and had negligible effect on air quality and noise sensitive receptors. This was further tested through the EIA process which was also subject to third party review.
- 06.5.13** Paragraph 125 of the NPPF states that "Planning ... decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land".
- 06.5.14** Planning policy is clear that applications should only be refused if any potential harms are considered to be "substantial", here those matters appear to be noise and transport.
- 06.5.15** The Government's "Brownfield Passport: Making the Most of Urban Land" (updated 13 February 2025) summarises potential proposed options for a form of 'brownfield passport', which would be more specific about the development that should be regarded as acceptable, with the default answer to suitable proposals being a straightforward "yes".
- 06.5.16** The Appeal Site is brownfield land, and the Appeal Scheme will make effective use of this underutilised land. The default position of the Council should therefore have been the 'straightforward yes'.
- 06.5.17** The reason for refusal and associated delegated officer report is generalised and vague and does not include the specific issues and/or impacts which make the scheme unacceptable, only general commentary. For this reason, it fails the guidance in the NPPG. This includes the requirement, where planning permission is refused, to state clearly and precisely the full reasons for the refusal, specifying all policies and proposals in the development plan that are relevant to the decision.

06.6 PLANNING BALANCE

- 06.6.1** The reason for refusal refers to matters of planning judgment. Whilst a local planning authority should apply judgment in regard to planning considerations, as noted above S38 of the 2004 Act requires such decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The

Council has not demonstrated any material considerations that outweigh the very considerable planning policy support for the scheme.

06.6.2 As noted in Section 7.1 above, the Appeal Scheme accords with the planning policies in the London Plan and the policies in the Local Plan.

06.6.3 The Appeal Scheme will deliver a number of substantive benefits for the Borough. These include:

- / Making effective use of brownfield land to deliver jobs for the borough.
- / The introduction of an enforceable management of the site and associated traffic movements through planning conditions and obligations.
- / Wider benefits to the development and construction industry in Bromley, London and the UK through the service the scaffolding yard provides.

06.6.4 The Appeal Scheme would optimise an existing vacant site. The impacts had been thoroughly assessed and considered acceptable. In addition, further benefits are secured via the implementation of the package mitigation measures. The Appeal Scheme is aligned with the Spatial Strategy for Bromley, represents Good Growth for London, and is Sustainable Development in accordance with the National Planning Policy Framework.

06.6.5 In summary, the Appeal Schemes positively respond to the aims of national, strategic and local policies and guidance that encourage the intensification of underutilised brownfield sites.

06.6.6 Taking account of all the relevant material considerations, the Appeal Scheme is considered to be acceptable in all respects.

07. CONCLUSION AND PLANNING BALANCE

- 07.1.1** The Appeal Scheme is for the use of an existing industrial site in Bromley as a scaffolding yard.
- 07.1.2** The Appeal Scheme was developed to positively respond to Planning, Transport and acoustic feedback at the during determination of the planning application.
- 07.1.3** The Scheme was refused by officers under delegated powers on the grounds of impact from intensification of the Appeal Site would cause unacceptable levels of result in an adverse impact on the amenity of the surrounding area from a noise and highways perspective.
- 07.1.4** A Draft Statement of Common and Uncommon Ground is provided in [Document 11] which outlines those matters that Appellant is seeking to resolve with the Council prior to the Appeal. The Appellant will seek will to meet with the Council in the coming weeks to discuss and agree the items in the draft Statement of Common and Uncommon Ground ahead of the Appeal.
- 07.1.5** The Draft Statement of Common and Uncommon Ground also reflects the information contained within the Enforcement Notice (issued by the LPA under reference 23/00705/OPDEV). This notice sets out the reasons for pursuing enforcement against the site justified by asserting the proposal is contrary to Policies 37 and 119 of the Bromley Local Plan and Policies D3 and D14 of the London Plan.
- / Policy 37 is called General Design of Development and deals with matters with regards to ensuring the creation of an attractive townscape and pleasant living and working conditions.
 - / Policy 119 is called Noise Pollution and seeks to minimise future noise problems and reduce existing ones.
 - / Policy D3 is called Optimising site capacity through the design-led approach which seeks to ensure development's form is the most appropriate for the site and land uses meet identified needs. This is done through a design-led approach to optimising site capacity should be based on an evaluation of the site's attributes, its surrounding context and its capacity for growth to determine the appropriate form of development for that site.
 - / Policy D14 is called Noise and similar to Policy 119 above seeks to ensure that noise is managed to encourage the right acoustic environment, both internal and external, in the right place at the right time.
- 07.1.6** Notably the Enforcement Notice does not raise any issues with highway safety nor reference Policy 32 ('Highway Safety') of the Bromley Local Plan. As such it is considered that all parties shall be able to agree there are no transport or highway issues associated with the site nor a breach against policy 32 of the Local Plan.

- 07.1.7** This Statement of Case demonstrates that the Appeal Scheme is consistent with the requirements and objectives of the NPPF, London Plan and Bromley Local Plan. In particular the Appeal scheme reinvigorates an underutilised industrial brownfield site and demonstrates no transport or noise impacts.
- 07.1.8** The redevelopment of the Appeal Site will deliver a range of substantive benefits for the Borough. These include:
- / Making effective use of a brownfield site to deliver jobs for the borough.
 - / The introduction of an enforceable management of the site and associated traffic movements through planning conditions and obligations.
 - / An increase in industrial floorspace creating more jobs of the borough.
- 07.1.9** Having regard to the above and to the evidence and material accompanying this statement, the Inspector is respectfully urged to allow this appeal for the Appeal Scheme and grant planning permission.
- 07.1.10** The Appeal Scheme provides significant benefits to the Borough in supporting local business and providing much needed jobs for the Borough.

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