



**LONDON BOROUGH OF BROMLEY
HOUSING, PLANNING & REGENERATION**

**INQUIRY (JOINT) STATEMENT OF CASE
JUNE 2025**

APPEAL A

LBB Ref No: EN/23/00705/OPDEV
PINS Ref No: APP/G5180/C/25/3363900

Appeal by Churchfields Road BR3 Ltd, Mr Luke Osborne against the issue of an enforcement notice by the London Borough of Bromley alleging without the required planning permission, the material 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 two single storey cabins and CCTV/lighting.

APPEAL B

LBB Ref No: DC/24/00815/FULL2
PINS Ref No: APP/G5180/W/25/3365514

Appeal by Churchfields Road BR3 Ltd, Mr Luke Osborne against the decision of the London Borough of Bromley to refuse retrospective planning permission for the temporary (5 years) change of use for Sui Generis formed of an electricity undertaker's depot to a dual use of Class B8 and Sui Generis retaining the existing electricity undertaker's depot.

Land at: London Electricity Board Depot, Churchfields Road, Beckenham, BR3 4QZ

1.0 INTRODUCTION

- 1.1 This Statement of Case is submitted in respect of both appeals which have been linked.
- 1.2 The Appellant's appeal submission includes the latest update of the "existing plan", drawing number: 6446 Z1-9-20100 P02. The plan indicates a total of seven single storey structures for storage and amenity purposes. In addition to this a forklift storage shelter and several additional pole mounted floodlights / CCTV were noted during a recent site visit which are not shown on the appeal stage plan. It is considered that the description of development should be amended to reflect this and should therefore read as follows:

Material 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 8 no. single storey amenity / storage cabins and 1 no. equipment shelter and TBC no. pole mounted CCTV/lighting columns

Appeal A)

- 1.3 The Council considered it expedient to issue the Enforcement Notice (EN) for the following reasons:

It appears to the Council that the above breach of planning control has occurred within the last 10 years.

The dual use of Class B8 (scaffolding equipment storage/distribution) and Sui Generis (electricity undertaker's depot) 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.

The proposal is thereby contrary to Policies 37 and 119 of the Bromley Local Plan and Policies D3 and D14 of the London Plan.

- 1.4 The steps required to remedy the breach of planning control are:

- (a) Cease the use for the storage and distribution of scaffolding equipment at the Land as described in paragraph 3 above, and*
- (b) Remove from the Land the scaffolding storage and equipment, and*
- (c) Remove from the Land all resulting debris*

- 1.5 The period for compliance is:

Within 3 months after the notice takes effect.

- 1.6 A copy of the EN is attached at **Appendix 4**.

- 1.7 Unlike the planning application RfR the EN does not explicitly refer to highway safety or Policy 32 of the Bromley Local Plan (BLP). This was an oversight and the Council would like to make it clear that it intends to maintain this issue as part of the reason for issuing the EN at the Inquiry. It is considered that there is no injustice to the Appellant as the Council does not foresee that such a change to the reason for issuing the EN would require additional evidence

on the part of the Appellant as highways evidence has already been set out in relation to the s78 appeal. Should the Inspector conclude that the EN can be varied / corrected the following revised reasons are suggested:

"It appears to the Council that the above breach of planning control has occurred within the last 10 years.

The dual use of Class B8 (scaffolding equipment storage/distribution) and Sui Generis (electricity undertaker's depot) 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 and unacceptable impact on highways safety that cannot be successfully mitigated or 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."

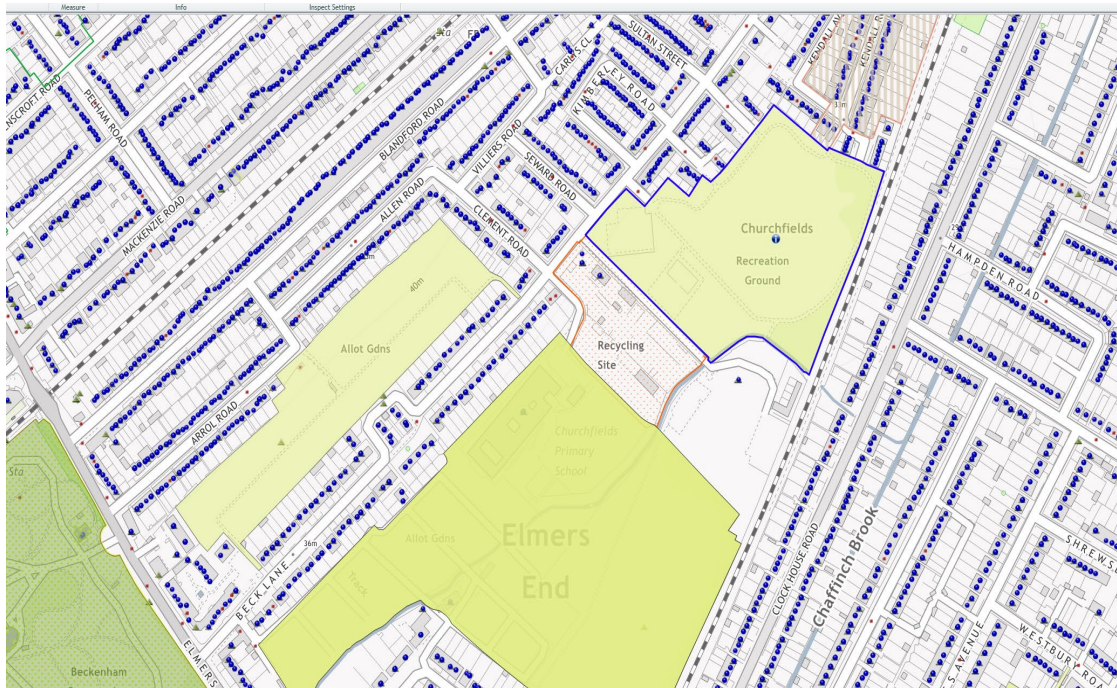
Appeal B)

- 1.8 The application was received on 5 March 2024 and refused permission by Decision Notice dated 17 October 2024 for the following reason:

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.

2.0 SITE AND SURROUNDINGS

- 2.1 Churchfield Road is accessed from its northern end via Beckenham Lane A234. It is a long road extending to c. 620m. At the junction with Clement Road Churchfield Road becomes Beck Lane and extends a further c 400m. The road is predominantly residential in character comprising a small number of three storey residential buildings to the northern end of Churchfield Road, beyond that the properties further along Churchfield Road and the dense network of streets that lead from it comprise terraces of mainly modestly sized two storey dwellings



- 2.2 Churchfield Road is also interspersed with non-residential elements such as a small church in the northern section of the road at the junction with Blandford Avenue. Further south, and much closer to the appeal site at the junction with the Kimberley Road and Florence Road, there is an off licence and a dental laboratory, located at the end of residential terraces.
- 2.3 To the South of Churchfield Road, closest to the appeal site, there are other land uses. The appeal site is bounded to the south by Maberley Road Playing Field and to the north by Churchfields Recreation Ground which incorporates a children's play area. Both these spaces are designated as Urban Open Space. Immediately to the west is Churchfields Reuse and recycling centre (RRC) and beyond the Council owned land on the other side of the Chaffinch Brook to the south-west is Churchfields Primary and Nursery School. To the east of the appeal site is the railway line beyond which is the rear of gardens of properties which front onto Clock House Road.
- 2.4 The appeal site is accessed via a two way but relatively narrow access road which is gated at the entrance to Churchfields Road post operational hours. It serves as a public access for domestic users of the RRC as well as providing access to the appeal site as a scaffolding storage and distribution yard and UKPN the utility undertakers Sui Generis use as a depot. The operational access to RRC which is wider is barrier controlled and used by the Veolia operational vehicles. Beyond this access is the vehicle and pedestrian access to Churchfields Primary and Nursery School.

- 2.5 Towards the northern end of Churchfields Road from just after the junction with Old School Close going south towards the appeal site there is unrestricted parking along both sides of the road. The only exception being a small number of disabled parking bays, bus stops and keep clear road marking which runs from the approach to the appeal site access road to past the school access into the start of Beck Lane.
- 2.6 Beyond the access road the main gated entrance to the red lined site as a whole branches off into two separate (also gated) accesses to the scaffolding yard use and Sui Generis depot use. Where the scaffolding yard abuts Maberley Road Playing Field to the south there are for the most part trees along the boundary, however to the east where it is bounded by the railway line it appears that some trees have been removed overtime (**See Appendix 3**).
- 2.7 The site incorporates a cluster of 7 single storey structures in its north-eastern corner. In addition, there are two 6m high scaffolding storage bays which incorporate a roof but is essentially an open structure with a racking system for scaffolding, wooden planks, fixings, and related paraphernalia. The two bays area are positioned in an L-shaped configuration, one bay parallel with the access to the scaffolding yard and the second abutting the western boundary. The remainder of the site save for circulation and car parking to the northern boundary and centralised loading bay area is laid out to open storage of scaffolding poles, wooden planks and various fittings. The cutting of poles and wooden planks takes place in the storage rack abutting the RRC on the ground floor part behind a plastic "noise curtain".
- 2.8 It is also noted that there is a heaped deposit of what appears to be waste soil in the south eastern corner of the site, its origin is unknown, it is fenced off in a quarantine / quality control area also used for defective materials /equipment.
- 2.9 Recent photographs of the appeal site and surroundings, historic photographs and aerial photos from 2003 – 2025 are attached at **Appendices 1, 2 and 3**.

3.0 PLANNING HISTORY

- 3.1 The pre-existing use of the site as a sui generis statutory undertaker's depot is long-established, and the planning history indicates that in 1992 under application reference 92/00337/FUL planning permission was granted for change of use from electricity undertakers depot to electricity undertakers depot and vehicle service repair and mot testing station.
- 3.2 The decision made it quite clear that these additional operations on the site were to be inherently linked to the main use, and so were ancillary to the main use of the site. It is unclear

to what extent this ancillary use was ever implemented, the aerial photos at appendix 3 suggest it was not to any significant degree. Notwithstanding that the conditions imposed on the permission cumulatively had the effect of controlling the intensity of the use of the site and preventing an unauthorised formation of a separate use for vehicle servicing, testing and repair unrelated to the main established use of the site.

- 3.3 This grant of planning permission was also subject to conditions. Condition 3 was the hours of use of the site, which were that it would not operate before 07.30 hours or after 17.30 hours on any day. Condition 3 was imposed "in the interest of the amenities of the area". Condition 2 was: "The servicing, testing, repairing and storing of vehicles on the application site hereby permitted shall be carried out only by London Electricity PLC" (and was imposed in order to "enable the Council to reconsider the situation in the event of a change of user in the interest of the amenities of the area").
- 3.4 The permission also 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 the final condition (condition 4) required that the night trunking operation involving the use of 2 x 30 tonnes maximum length drawbar units would no longer collect or deliver to the application site outside the opening hours stipulated by condition 3. (**See Appendix 5**)
- 3.5 In 2001 it appears that demolition work had taken place over much of the site, although some buildings were at the time still standing. Subsequent planning records indicate that the removal of rubble/detritus associated with the demolition of buildings on the site was undertaken over a long period of time, including as recently as 2013 under application reference 13/01555/PLUD when a lawful development certificate was granted for the "remediation of contaminated land and removal of waste and contaminated material."
- 3.6 Until recently therefore, the use of the site has been a sui generis use with all activities on the site related to the statutory electricity provider's function.
- 3.7 More recently on 23 May 2025 under application reference 25/01827/ELUD an existing use Lawful Development Certificate was made valid for provision of replacement hardstanding. At the time of writing the application was pending consideration.

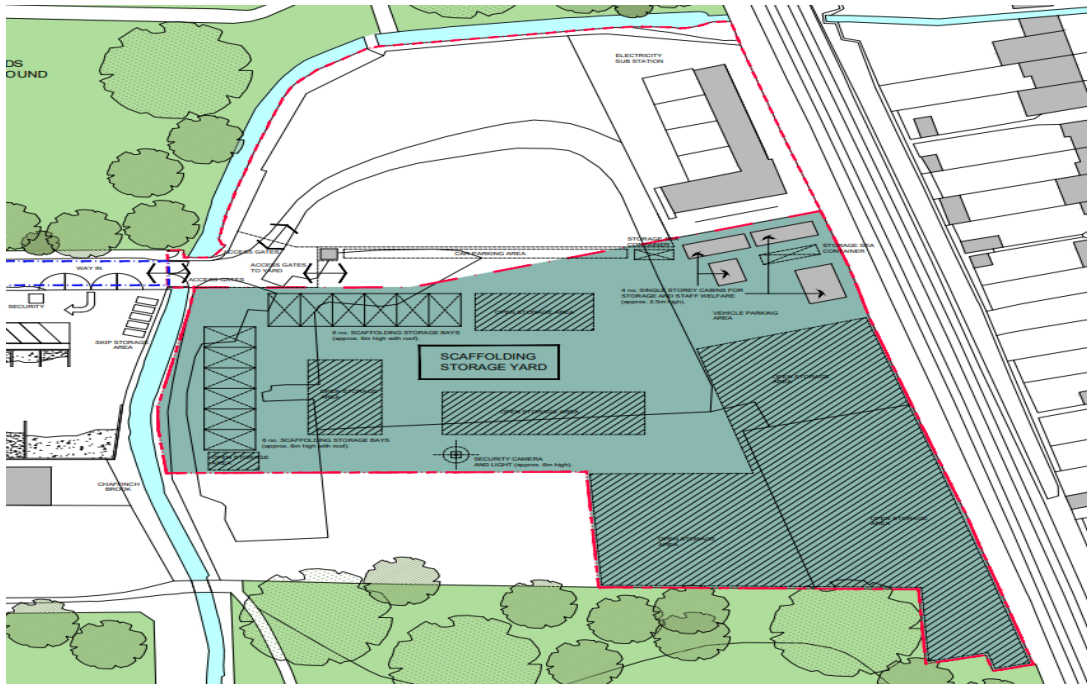
4.0 APPEAL PROPOSALS

APPEAL B

- 4.1 The appeal scheme seeks retrospective planning permission for the change of use of land from Sui Generis use 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 retention of the existing electricity undertaker's depot. The site location plan edges the entirety of the electricity undertaker's yard in red with the access leading from Churchfields Road being edged in blue. The blue edged access comprises an easement for vehicle and pedestrian shared access to Churchfields Road. The entire redlined site is stated in the application form to measure 0.93 hectares, the plan is coloured to denote the part of the wider site which would be used as a scaffolding storage yard,
- 4.2 It is noted that the application seeks temporary planning permission, with the covering letter stating "the use will cease at the end of the temporary period and revert to the existing sui generis consent." Government guidance (Use of Planning Conditions) states in respect of temporary permissions that they may be appropriate where a "trial run" is required in order to assess the effect of development on an area, or where it is expected that planning circumstances will change in a particular way by the end of the period. It is also stated that "a temporary planning permission may also be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forwards." It is rarely considered justifiable to grant a second temporary permission and there is no presumption that the granting of a temporary planning permission will lead to permanent planning permission.
- 4.3 The application was received on 5 March 2024 accompanied by the following supporting documents:
- Covering letter
 - Flood Risk Assessment
 - Site Images (CCTV)
 - Transport Statement (and subsequent Transport Letter)
 - Noise Impact Assessment (and subsequent response to comments)
- 4.4 The cover letter stated: (page 3) "***The proposed scheme will maintain the existing site, with no physical changes. No additional vehicular or cycle parking is proposed, however, the informal use of the hardstanding on the site for parking and access will be retained. The use will cease at the end of the temporary period and revert to the existing Sui Generis consent.***"

- 4.5 The application form refers to intended hours of operation as being 0600 – 1600, Monday to Saturday, with the site accommodating the equivalent of 7 full-time employees. The application form does not suggest any Sunday operating hours (page 8, box 20). It is noted that the Transport Statement refers to proposed trip generation in the period 0700 - 0800 and 1600 – 1700, i.e., different hours.
- 4.6 During the course of the application the scope of the retrospective proposal evolved with specific reference to revised “existing and Proposed Ground Floor Plans”, and the following was submitted:
- 5 March 2024 - [B20100-P03] The original plans received did not show any structures proposed as a part of the retrospective application.
 - 11 April 2024 [B20100-P04] was amended to exclude Council owned land from the red lined site area but did not show any structures.
 - 27 August 2024 [Z1-920100 P00] plan showed 2 no. single storey amenity cabins, and the 2 no. large open sided scaffolding storage bays currently on site these structures extend to approx. 6m high including roofs. Siting of a single pole mounted CCTV / flood lighting (approx. 6m high) to the south-west boundary of the site was also included together with site access point further north east than its current position. The plan also demarcated the scaffolding storage yard area. 8 October 2024 [Z1-9-20100 P01] same as above appears to add a scale bar only.
 - 11 April 2025 -[Z1-9-20100 P02] the appeal stage plan includes an additional red line running across the site demarking the extent of the appeal site scaffolding yard use from the adjacent UKPN depot. The current positioning of the gated access directly to the scaffolding yard is now shown. The layout of structures and equipment is set out at paragraph 2.7.
- 4.7 A site visit on 2 June 2025 revealed that a covered forklift shelter / charging area and several pole mounted CCTV / floodlights around the southern and eastern perimeter of the site and adjacent to the storage / amenity buildings have been omitted from the plan. There is a significant amount of scaffolding equipment on the Council owned land adjacent to the south-western corner of the appeal site. The entire area is in open storage use in an indistinguishable manner from the remainder of the scaffolding yard. The Council is no longer in negotiations in respect of a letting involving that parcel of land. The appellant agreed to cease their unauthorised use of the Council’s land to enable a fence to be erected around the Council land but this has not as yet occurred

Drawing No. Z1-9-20100 P02



4.8 Furthermore, it is not clear from the plans whether the smaller swathe of land shown above the shaded area should fall under the scaffolding yard use as it sits behind the metal palisade fencing that encloses the scaffolding yard to the north. For completeness the appellant should clarify this issue to enable greater clarity regarding the intensity of the use of the land for the subject storage and distribution purpose.

4.9 The appeal submission was accompanied by additional documents comprising:

- Watermans Noise Assessment
- SLR Transport Rebuttal
- Copy of Lease for the Appeal Site
- Drawing No. Z1-9-20100 P02
- Draft SoCG

APPEAL A

4.10 The appeal stage plan [Z1-9-20100 P02] does not affect the steps required to remedy the breach as the plan attached to the EN covers the entire redlined site. However, the unauthorised use also extends onto the adjacent Council owned land and this is not reflected in the current plan attached to the EN.

5.0 REPRESENTATIONS

Comments from local residents

- 5.1 Nearby owners/occupiers were notified of the application and 417 an exceptionally high number of objections were received representing substantial local objection.

Traffic, highways and highways safety

- 5.2 Residents raised numerous and significant concerns regarding the operation of the scaffolding yard use and highway safety in relation to the comings and goings within the vicinity of the access and along the access itself. It was considered that the scaffolding yard use could upset the safe operation of the RRC. The more intensive use of the site by heavy goods vehicles posing risks to pedestrians safety including school children. The highway information from the appellant does not take account of pre and after school use of the primary school. The access arrangements are considered unsuitable for large/ long scaffolding lorries that have been observed having difficulty manoeuvring to and from the access in an unsafe manner particularly with the presence of stationary traffic and parked cars. The Transport Statement lacks sufficient detail to demonstrate the proposal would not result in highway safety issues for local residents. There were also concerns that conditions to regulate hours of use and the operation of the site would not be enforceable.

Noise, disturbance and pollution

- 5.3 In relation to noise impacts arising from the proposed use, there was particular emphasis on the unloading and handling of scaffolding poles. The clattering and metallic impact noise associated with scaffolding equipment particularly when loading and unloading from lorries is considered highly disruptive to the enjoyment of residential amenity. These activities include manual methods which generate sharp, unpredictable jarring noise. The open-air nature of the site and the lack of effective sound attenuation measures further amplify this disturbance. Air quality impacts was also raised, with concerns that increased diesel emissions would degrade local air conditions. The cumulative impact of noise, highways safety and air pollution upon residential amenity was a recurring theme.

Other matters

- 5.4 There was frustration from residents that the application was submitted retrospectively with ongoing non-compliance issues in relation to stated hours of operation. There were concerns that the development offers little benefit to the local community, would be an eyesore and that the land could be put to better, more community-oriented uses. If approved, it was considered that strict conditions would be essential to mitigate harm.

Comments in support of the proposals were received and these are summarised:

- 5.5 Two comments in support were received, stating that continued industrial use of the site would help deter fly tipping and prevent redevelopment for residential purposes. Supporters also argued that the site should remain in employment-generating use.
- 5.6 In summary, the majority of representations object to the proposal due to its harmful impact on highway safety, noise, and air quality in a predominantly residential area. Residents argued the increase in heavy vehicles would worsen congestion around the access to the appeal site, endanger pedestrians particularly school children and worsen air quality. The noise from scaffolding operations, including loading and unloading, is seen as highly disruptive. The site is viewed as unsuitable for this specific use, with little community benefit. While less than 0.5% of comments were supportive in relation to retaining existing scaffolding yard use to deter fly tipping. The overwhelming view was that the proposal is inappropriate for the location due to its detrimental impact upon residential amenity.
- 5.7 Details of application stage responses from local residents summarised above were forwarded with the appeal questionnaire.

6.0 LOCAL, REGIONAL AND NATIONAL PLANNING GUIDANCE

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan for the area unless material considerations indicate otherwise. The development plan includes the London Plan (LP) (2021) and Bromley Local Plan (BLP) (2019).
- 6.2 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:
- a) the provisions of the development plan, so far as material to the application,
 - b) any local finance considerations, so far as material to the application, and
 - c) any other material considerations.
- 6.3 The London Plan 2021 is the most up-to-date Development Plan Document for the London Borough of Bromley, and therefore, in accordance with section 38(5) of the Planning and Compulsory Purchase Act 2004, "if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan."

- 6.4 Having regard to the reasons for refusal set out in the decision notice and those policies referred to in the delegated report the Council lists below those policies it considers are most relevant to consideration of this appeal and overall planning balance.

Bromley Local Plan (BLP) Policies

- 6.5 The relevant policies referred to in the Decision Notice are Policies 32, 37 and 119. These are summarised below. Policy 83 (Non-Designated Employment Land) was referred to in the main body of the delegated report and is also relevant to the Inspector's overall assessment of the appeal. **(See Appendix 6).**

Policy 32 Road Safety

- 6.6 The Council will consider the potential impact of any development on road safety and will ensure that it is not significantly affected. The supporting text states: Road safety considerations need to influence design of any development. 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. Where a proposal is situated in a location with an existing road safety problem, the applicant would be expected to fund any necessary mitigation to resolve the difficulty as far as possible within the development and/or contributing to broader off-site solutions.

Policy 37: Design of New Development

- 6.7 Policy 37 of the BLP relates to the general design of development and includes a number of criteria that development will be expected to meet, dependent on the scope of the development applied for. It includes at Policy 37(e) that, inter alia, development should respect the amenity of occupiers of neighbouring buildings, providing healthy environments and ensuring amenities are not harmed by noise and disturbance, inadequate daylight, impact on privacy or overshadowing.

Policy 83: Non-Designated Employment Land

- 6.8 The purpose of this policy is to [6.1.23] set out clear criteria for change of use proposals. The Policy wording also states that proposals for the change of use or redevelopment of non-designated sites containing Class B uses for alternative employment generating uses will "normally be allowed provided that the amenity of any nearby residential areas is not detrimentally affected."

Policy: 119 Noise pollution

- 6.9 Policy 119 of the BLP relates to noise pollution and states that in order to minimise adverse impacts on noise sensitive receptors, proposed development likely to generate noise and or vibration will be required to be supported by a full noise/vibration assessment to identify issues

and appropriate mitigation measures. Policy D14 of the London Plan states that development proposals should avoid adverse noise impacts on health and quality of life.

London Plan (LP) Policies

Policy D3: Optimising site potential through the design-led approach

- 6.10 Paragraph 3.32 states: "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."
- 6.11 Paragraph 3.3.9 states: "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. Characteristics that increase pollutant or noise levels, such as poorly-located emission sources, street canyons and noise sources should also be designed out wherever possible. Optimising site layout and building design can also reduce the risk of overheating as well as minimising carbon emissions by reducing energy demand."
- 6.12 Paragraph 3.3.17 states: "New developments should be designed and managed so that deliveries can be received outside of peak hours and if necessary in the evening or night-time without causing unacceptable nuisance to residents. Appropriate facilities will be required to minimise additional freight trips arising from missed deliveries."
- 6.13 Policy D3 Part D states:
- The 'form and layout' of development proposals should:
 - 4) facilitate efficient servicing and maintenance of buildings and the public realm, as well as deliveries, that minimise negative impacts on the environment, public realm and vulnerable road users
 - The 'Experience' should:
 - 5) achieve safe, secure and inclusive environments
 - 9) help prevent or mitigate the impacts of noise and poor air quality

Policy D14: Noise

- 6.14 Policy D14 of the London Plan states that development proposals should reduce, manage and mitigate noise to avoid significant impact on health and quality of life.
- 6.15 In relation to the management of noise paragraph 3.14.1 of the LP states:

"The management of noise is about encouraging the right acoustic environment, both internal and external, in the right place at the right time. This is important to promote good health and a good quality of life within the wider context of achieving sustainable development. The management of noise should be an integral part of development proposals and considered as early as possible. 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. Consideration of existing noise sensitivity within an area is important to minimise potential conflicts of uses or activities, for example in relation to internationally important nature conservation sites which contain noise sensitive wildlife species, or parks and green spaces affected by traffic noise and pollution. 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."

Policy E4: Land for industry, logistics & services to support London's economic function

- 6.16 Policy E4 relates to "Land for industry, logistics and services to support London's economic function" and includes at E4(D) a general strategic policy that refers to the retention/enhancement of additional industrial capacity should be prioritised in locations that are accessible to the strategic road network, as well as/or having potential for transport of goods by rail and/or water transport.

Policy E7: Industrial intensification, co-location and substitution

- 6.17 Policy E7 of the London Plan states that development proposals should proactively encourage the intensification of businesses in use classes B1c, B2 and B8 "occupying all categories of industrial land" through, in part, the introduction of small units. Mixed-use development proposals on non-designated industrial sites which co-locate industrial, storage or distribution floorspace with residential and/or other uses should meet a range of criteria including:

E7 Part (D) 1) "The industrial and related activities on-site and in surrounding parts of the SIL, LSIS or Non-Designated Industrial Site are not compromised in terms of their continued efficient function, access and service arrangements and days/hours of operation noting that many businesses have 7-day/24-hour access and operational requirements." In relation to co-location it is stated at Part D) 3) that appropriate design mitigation should be provided in any residential element to ensure compliance with 1 above with particular consideration given to:

- a) safety and security
- b) the layout, orientation, access, servicing and delivery arrangements of the uses in order to minimise conflict
- c) design quality, public realm, visual impact and amenity for residents

- d) agent of change principles
- e) vibration and noise
- f) air quality, including dust, odour and emissions and potential contamination.

6.18 In relation to Policies E4 and E7 this represents general strategic advice that needs to be read and considered in terms of the plan as a whole. Therefore, it does not override other relevant policies of the plan.

6.19 The following policies of the London Plan are also relevant for the Inspector's decision, when considering the issues in the round:

D13: Agent of Change

T2: Healthy Streets

T5: Cycling

T7: Deliveries, servicing, and construction

GG2: Making the best use of land

GG5: Growing a good economy

National Planning Policy Framework (2024)

6.20 The National Planning Policy Framework ("the framework") (2024) is also an important material consideration in the determination of this appeal.

6.21 Section 2 the NPPF explains that the purpose of the planning system is to contribute to achieving sustainable development, which is explained to be development which meets the needs of the present without compromising the ability of future generations to meet their own needs.

6.22 There are 3 overarching and mutually interdependent objectives to the planning system which need to be pursued. These are defined in the NPPF as being first, an economic objective with the aim of building a strong, responsive and competitive economy, supporting growth and innovation. Second, a social objective with the aim of ensuring that a sufficient number of homes are provided to meet present and future needs while building strong, vibrant and healthy communities with accessible services which support health, social and cultural wellbeing. Third, an environmental objective which requires the protection and enhancement of the natural, built and historic environment through the effective use of land, improving biodiversity, minimising waste and moving to a low carbon economy.

6.23 The following sections of the NPPF are considered to be most relevant.
Section 2: Achieving Sustainable Development - paras 8-12

Section 4: Decision-making - paras 56 – 60

Section 6: Building a Strong, Competitive Economy – para 87 (b)

Section 9: Promoting Sustainable Transport - paras 115-117

Section 11: Making Effective use of land – Para 124

- 6.24 The relevant Development Plan Policies on which the Council relies are +considered to be consistent with the framework.

7.0 THE COUNCIL'S CASE

APPEAL B

- 7.1 The reason for refusal refers to 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 goes on to say that "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 impact to residential amenity is central.
- 7.2 The Council will show that the appellant has failed to demonstrate that the impacts of the appeal scheme would not have a detrimental impact upon residential amenities with specific reference to noise and disturbance and highway safety. In addition, the Council will in evidence explain background information about how Churchfields Road Refuse and Recycling Centre operates and interacts with the use of the appeal site in relation to its traffic concerns, access issues and how the legal framework requiring local authorities to provide waste disposal facilities is impacted by the appeal proposal.

Churchfield Road Reuse and Recycling Centre ("RRC")

- 7.3 Local authorities have a statutory duty to provide and maintain waste disposal sites for residents. Churchfields Road RRC is provided in compliance with legal requirements¹, ensuring Bromley residents have a regulated and safe disposal facility. Bromley Council operates two public reuse and recycling centres, the other larger facility centre [Waldo Road Reuse and Recycling Centre] has been temporarily closed to the public since February 2025, after this application was determined, for major infrastructure upgrades and is expected to reopen in Spring 2026. Due to the demand following the closure of Waldo Road RRC, a booking system is currently in place at Churchfields Road RRC. It should be noted that no decision has been made as to whether the booking system will remain in place once Waldo Road reopens in 2026.

¹ The Waste (England and Wales) Regulations 2011, The Environmental Permitting (England and Wales) Regulations 2016, The Control of Pollution Act 1974

- 7.4 Churchfields Road RRC also accepts commercial waste 'direct delivered' by local businesses and charities, which primarily use vans and small 7.5 tonne tippers, but this service is currently suspended due to Waldo Road improvement programme.
- 7.5 The access road to the Appeal Site is the same road that is used by residential vehicles depositing waste at the RRC. Commercial vehicles and waste trucks have a separate entrance on Churchfields Road. The approach road (seen clearly on the plans) is two way. Queuing vehicles often extend onto Churchfields Road during peak hours (this has been temporarily mitigated following the introduction of the booking system in February 2025 – but can still occur).
- 7.6 There are clear access and safety concerns about the use of the Site and impact on the approach road to the RRC, Churchfields Road, and vehicles and pedestrians. These include:
- The increasing use of the approach road poses a traffic congestion risk and a traffic collision risk (considered in more detail in the 'Highway Safety' section of this Statement of Case below);
 - Overriding of and damage to the public footway and kerbs has occurred by HGVs at the entrance to the access road;
 - HGV vehicles have been observed bypassing the queuing RRC traffic on the wrong side of the road;
 - The pedestrian walkway into and along the RRC approach road lacks barriers, raising safety concerns - particularly for pedestrians accessing the RRC (2000 bookings have been made for pedestrian access to the RRC since February 2025) and for the Appellant's staff traveling by foot to enter the Site;
 - An RTC on the approach road took place on 08 October 2024 when a vehicle driven from the LEB site collided with a vehicle coming from the RRC;
 - The RRC's security has been compromised due to the approach road gate being left unlocked on several occasions.
- 7.7 While there is a temporary booking system in place for current access to the RRC, the long-term impact of the Appellant's operations should be considered in relation to no booking system being in place.

Noise

- 7.8 As a preliminary point it should be noted that there is a distinction between statutory noise nuisance under the Environmental Protection Act 1990 (EPA 1990), Section 79, and noise levels considered in planning for the protection of amenity is important in environmental health and

planning contexts.

- 7.9 Under the Environmental Protection Act 1990, Section 79, noise becomes a statutory nuisance if it, unreasonably and substantially interferes with the use and enjoyment of a home or other premises or is injurious or likely to be injurious to health. There is no fixed decibel limit as assessment is based on professional judgement considering time, duration, frequency and character of the noise.
- 7.10 In the planning system, noise is assessed differently. The focus is on preventing adverse impacts on health and quality of life through the National Planning Policy Framework (NPPF) and associated guidance (e.g. Noise Policy Statement for England – NPSE). It differs from noise nuisance investigation and action as the planning process guides development to avoid unacceptable noise impacts, it is objective, rather than subjective, relying on noise metrics for assessment and it uses indicative levels defined in guidance to assess impacts.
- 7.11 This is a Site which gives rise to loud and unpredictable noises when metal hits metal. While the operatives may attempt as far as is possible to undertake their tasks quietly, some level of disturbance is inevitable due to the nature of the use and the processes associated with manoeuvring the equipment around the site and on/off the lorries. Whilst it is understood that electric forklifts are used there is also manual handling the intermittent nature of the noise/disturbance that results from this alongside the hours of operation of use, including the early hours of the morning and weekends, is considered highly likely to give rise to an unacceptable impact on residential amenity. Residents have complained about the site being used outside of the indicated hours of operation. The Council's case is that the proposed development has had and continues to have a detrimental impact on residential amenity.
- 7.12 The Appeal has been supported by an Acoustic Report from Waterman dated 31st March 2025. The conclusion reached in the Acoustic Report, that the noise from the operational activity for the 4 operational periods is only going to give rise to, at worse, a small adverse impact, to neighbouring premises at Clock House Road and Churchfields Road, is not supported by the Council.
- 7.13 The Council does not accept that the assumed noise levels accurately predict the impact to surrounding residents. These include noise from the traffic to and from the site, the general noise from within the site, with for example, metal on metal clanging and banging noises associated with the scaffold loading and unloading and the noise from the cutting of metal operations, along with vehicles manoeuvring on-site.

- 7.14 The BS4142:2014 methodology for assessment has been used by the Appellant's noise consultant to establish the impact of noise on the surrounding residents. An essential part of the BS4142:2014 methodology is to consider the level of uncertainty in the data and associated calculations. It is the view of the Council that the methodology has not been properly considered, and when it is fully taken into account, its application casts doubt on the accuracy of the conclusion reached.
- 7.15 In addition to the above, as the site has been in active use for some time, the Council's view of an adverse noise impact is supported by residents who have reported noise disturbances to the Council that has been affecting them from the unauthorised day to day use of the site, including from operations at the Site outside of the Appellant's proposed hours.
- 7.16 Accordingly, the Council's case is also that the Appellant has not demonstrated that the negative impacts can be successfully mitigated or controlled.

Highway safety

- 7.17 Following the submission of the original Transport Statement (TS) by SLR Consulting, dated 21 February 2024, and their subsequent rebuttal statement dated 7 April 2025, a number of issues have emerged concerning the accuracy and implications of the transport data presented.
- 7.18 Upon review, it is evident that there is a significant discrepancy between the original trip generation figures and the more recent data now available. The updated information demonstrates that the site is generating more than three times the number of trips originally outlined in the TS. This substantial variance casts doubt on the reliability of the initial transport assessment and raises serious concerns regarding its conclusions.
- 7.19 Moreover, it has become clear that larger articulated vehicles are unable to safely manoeuvre in and out of the site via the designated access road without overriding the kerb and occupying the entire width of the carriageway. This highlights a fundamental deficiency in the access design, with consequential implications for highway operation and safety.
- 7.20 In light of this newly available evidence, I consider it both appropriate and necessary to provide professional input to support the Inspector in assessing the practical implications of the current access arrangements as they are being utilised. It is imperative that these real-world operational and safety concerns are fully understood and properly considered in the determination of this appeal.

- 7.21 Churchfields Road functions as a designated bus and cycle route. The 354-bus service operates along this road with a frequency of approximately six buses per hour. However, the service is frequently delayed due to existing traffic congestion. Additionally, Churchfields Road forms part of the Waterlink Way, which is also designated as National Cycle Network Route 21.
- 7.22 The updated swept path analysis provided by SLR (as part of their rebuttal statement dated 7 April 2025) indicates that an articulated vehicle entering or exiting the site is required to utilise the full width of the access road. This raises significant safety concerns, as the access road is frequently used by pedestrians crossing on the footway and by vehicles accessing the Recycling Centre.
- 7.23 Traffic queuing along the service road leading to the Recycling Centre further exacerbates congestion and restricts traffic flow on both Churchfields Road and Beck Lane, particularly during morning and afternoon peak hours. The addition of site traffic from Mason Scaffolding has intensified congestion and further impede traffic flow.
- 7.24 These issues are particularly problematic during school drop-off and pick-up times, when vulnerable road users including children and carers are frequently crossing the access road to reach Churchfields Primary School. Residents of the Borough also regularly use the service road to access the Recycling Centre, increasing footfall and vehicular movements in the area.
- 7.25 There have been observed instances of Mason Scaffolding vehicles bypassing queuing traffic by driving on the wrong side of the access road in order to reach the site. This behaviour contravenes both the company's stated traffic management plan and the Highway Code, thereby raising serious concerns regarding road safety compliance.
- 7.26 Furthermore, there is no controlled junction at the intersection of the site access road and Churchfields Road. The lack of a stop line or any traffic control measures at this point contributes to hazardous conditions for both vehicular and pedestrian traffic. The absence of control means that sight lines at the junction are frequently obstructed by queuing vehicles on the service road, impeding safe navigation for all road users.
- 7.27 To date, the applicant has not submitted an adequate proposal to address these concerns or demonstrate compliance with London Borough of Bromley Policy 32, which requires that developments do not have a significantly adverse impact on road safety.
- 7.28 It is the Council's understanding that (**See Appendix 8**) the traffic attributable to the electricity undertaker's yard is only temporary because there is a significant current project upgrading

regional electricity infrastructure that is projected to finish in 2026. Accordingly, the assumptions in the Transport Rebuttal about HGV volumes attributable between the different road users are highly likely to be incorrect. The Council recognise the electricity undertaker's depot has a permission from 1992 (93/00337/FUL) which would facilitate a reasonable amount of relevant commercial vehicle access. The Council's point is that the Appellant's addition to that previous baseline of vehicles from the depot, which is to be separated from any increase associated with temporary significant infrastructure upgrades, causes a significant increase in volume with detrimental impacts to residential amenity.

- 7.29 The Council's case is therefore that the operations of the Site have a detrimental impact on residential amenity from a highway safety perspective, and that the Appellant has not demonstrated that the detrimental impact can be successfully mitigated and controlled.

APPEAL A

Ground (e) - The notice was not properly served on everyone with an interest in the land.

- 7.30 The Council are satisfied the Notice has been served correctly and effectively on the appellant (Churchfield Road BR3 Limited) and Masons Scaffolding Limited (handed in person to operation manager). The Council accepts it has not served London Power Networks PLC, but denies any prejudice. Moreover, the Council does not take issue with the general activities being undertaken by LPN, who operate an electricity sub-station depot, and which is not the subject of the EN. The comments made previously about present traffic volume from the electricity undertaker's yard being likely to be temporary because of a current infrastructure project are repeated.

Ground (f) -The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections

- 7.31 The Council does not agree that the steps required by the EN are excessive to remedy injury to amenity. As set out above, the noise generated by the site, including the intrusive sound of metal hitting metal is loud, unpleasant and unpredictable. The Appellant's findings, as set out in the Watermans' Report, are not a reliable indication of noise made at the site. The noise created is significantly more intensive than noises in the area beforehand.
- 7.32 This is a retrospective application: the Council are aware how this business operates and have received numerous complaints from residents. The behaviour and activities of the operators has been shown to be incompatible with residential amenity. The Council also refused

permission under Appeal B. Conditions could not be put upon such business operations to make the noise generation acceptable.

- 7.33 The Council have suggested adding the following to the reasons for issuing the EN: “and unacceptable impact on highways safety that cannot be successfully mitigated or controlled.” The Council recognises that Appellant has not dealt with this in its SoC about Appeal A, but has made extensive representations about it in the SoC about Appeal B, including providing a Transport Rebuttal. The Council will say the Appellants are not prejudiced by the amendment in consequence, and that the issues are the same for the Inspector. The Council considers the proposed amendment to the EN to be wholly compatible with the requirements as set out within the EN for compliance.

Ground (g) -The time given to comply with the notice is too short.

- 7.34 The Council has had regard to the information submitted with the appeal, and recognises that the Appellant could benefit from more time than was afforded and will not object to up to 6 months, which is in line with the appellants response to this question in the Planning Contravention Notice (PCN) response in February 2025. This document will be shared once a redacted version is agreed with the appellant.

8.0 PLANNING BALANCE

- 8.1 It is noted at paragraphs 06.63, 07.1.- 07.1.8 that the appellant’s balancing exercise identifies only perceived benefits of the scheme. It seems the appellant considers that there are no harms that arise from the appeal proposal. The Council on the other hand has carried out an assessment which draws reference to both harms and benefits, reaching a considered and balanced conclusion.
- 8.2 In undertaking the balancing exercise, the Council will demonstrate through evidence drawn from the assessment of the Council’s highways and Noise officers and a planning judgement made as to the weight to be afforded to the benefit or harm identified and weighed in the overall planning balance. In assigning weight to the harms and benefits in the preceding section 7, key policy and contextual issues that have informed the Council’s stance.
- 8.3 If the Appeal is dismissed this would not result in the loss of non-designated public land. It is the particular characteristics of the B8 use which has brought about the massive amount of public concern in terms of the impact upon residential amenity. It is feasible that another Class B8 storage and distribution use could operate on the site without the same concerns.

- 8.4 The UKPN use has operated on site for many decades without any complaints to the Council on record pertaining to its operational use. The Council does not object in principle to the use of the site for employment use purposes.

9.0 CONCLUSION

- 9.1 The Council has set out the outline of its case in the preceding section and in so doing has responded to the grounds of appeal.
- 9.2 Whilst the Council acknowledges the benefits associated with retaining non designated employment land, the concern is in relation to the specific nature of the existing Class B8 use on site and the impact of its operation in relation to neighbouring residential and educational land uses. Not all B8 or indeed Sui Generis uses would result in this level of noise. These adverse impacts would far outweigh any benefits associated with the appeal proposal, when considered cumulatively against the NPPF and the Development Plan. The negative impacts of the developments are considered of sufficient weight to uphold the Council's decision and dismiss the appeals.
- 9.3 In all the circumstances the Secretary of State is respectfully requested to support the Council in dismissing these appeals, as detailed above in this statement.
- 9.4 If the Inspector is minded to grant either/both appeal/s, and without prejudice to the case, a set of conditions to follow.
- 9.5 The Council reserves the right to make further representations in the event of the appellant's or the appellant's agent's additional comments or material.
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LIST OF APPENDICES

APPENDIX 1-1a	Recent Site Photographs (2025)
APPENDIX 2-2f	Historical Site Photographs (2022-2024)
APPENDIX 3-3c	Ariel Photographs (2003-2025)
APPENDIX 4	Enforcement Notice
APPENDIX 5	Decision Notice: 92/00337/FUL
APPENDIX 6	BLP Policy 83: Non Designated Employment Land
APPENDIX 7	Ordnance Survey Plan
APPENDIX 8	Bromley/Lewisham Cable Route works update