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

PINS Reference: APP/G5180/W/25/3365514

LBB Reference: C/24/00815/FULL2

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

OPENING FOR THE LOCAL PLANNING AUTHORITY

\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. This inquiry is about the impacts of the Appellant’s operations of its scaffolding yard on nearby residents. The site is in a residential area of Bromley. Access to the site is by one access road, and to reach it, vehicles on the access road must pass the public entrance and exit to a Reuse and Recycling Centre (RRC). A direct neighbour of the appeal site and the RRC is a primary school. The Appellant’s vehicles include heavy goods vehicles (HGVs), and they have been turning in and out of the access road at hours when children are going to and from primary school, as well as early in the morning and late at night. The activities at the scaffolding yard give rise to noise from metal poles clanging together, noise from metal poles being cut, and noise from vehicular movements.
2. The Council refused permission by a Decision Notice dated 17 October 2024. The Council further took enforcement action by an Enforcement Notice dated 11 March 2025. The reason for both Notices is because of an unacceptable impact on residential amenity. The question for the Inspector on appeal is whether the Appellant’s impact on residential amenity is acceptable in planning terms. The Council’s case is that it is not. There are two issues. First, the noise generated by the activities on the site, and second, matters of highways safety at the entrance to the access road and along the access road itself.

Background

1. Residents provided over 400 objections at the planning application stage, between May and September 2024. The Council’s case in the appeal is technical and is led by expert evidence, but the residents’ objections align with the Council’s concerns, and are clearly relevant for the Inspector. Three examples of such comments have been chosen for this Opening:

*“My primary objection is on safety grounds. I regular walk my small children to Churchfields Primary School along Churchfields Road and have to cross the existing public access road to the Churchfields Road Reuse and Recycling Centre (the "tip"). This can be difficult at times due to the high number of vehicles accessing and leaving the tip at all hours of the day. I believe additional vehicle movements, especially those made by very large, heavily laden lorries will make crossing this access road much more dangerous… I do not believe the access road entrance is wide enough to accommodate the turning movements of such vehicles. I have had the misfortune of waiting to cross the access road to the tip whilst a fully loaded scaffolding lorry has tried to turn into the access road (which required multiple attempts) and I had to move backwards (and my children backwards) as the lorry mounted the inside kerb. This is in stark contrast to the very wide commercial access to the tip further to the south which is specifically designed to accommodate such turning movements.”[[1]](#footnote-1)*

*“I have witnessed Masons scaffolding HGVs attempting to enter the site this way during school drop off in November 2023 and having to go back and forth several times. This created a very dangerous situation for a mother and a child who were trying to cross the road behind the truck... I witnessed other instances where Masons vehicles were unable to enter in one go. The entrance is not suitable for commercial vehicles*”[[2]](#footnote-2)

“*As a local resident who backs on to the proposed change of use I am extremely concerned about 1) The increase of noise pollution generated by loading & unloading scaffolding to everyone who works and lives in the vicinity Including a school, 2 recreation public parks & local residents.”[[3]](#footnote-3)*

1. During the appeal process, further comments were provided to PINS during the appeal consultation window of 23 May 2025 and 23 June 2025. Four examples have been chosen for the purposes of this Opening statement:

*“As a local resident, I am deeply concerned about the negative effects the current use is having on the neighbourhood… The use of the site for scaffolding storage and distribution… has introduced significant noise and disruption. Heavy goods vehicles loading and unloading activities, and early/late operating hours, all contribute towards a persistent decline in residential amenity” [[4]](#footnote-4)*

*“The placement of Mason’s scaffolding is both dangerous and irresponsible. I am a local homeowner I have a child at the primary school… the large trucks are unable to manoeuvre onto their entrance road so they often mount the pavement. They are meant to not be entering at school drop-off and pick up times and they do, making it extremely dangerous for children and parents. I have personally witnessed near misses with children in these large trucks (that have huge blind spots by the way)… they are very large… and imposing and scary for our young children”* [[5]](#footnote-5)

*“The activity… includes the clattering of metal poles, vehicle noise, reversing alarms, and general industrial disruption. This is having a direct and negative impact on the learning environment for children and the quality of life for local residents”[[6]](#footnote-6)*

*“The huge scaffolding lorries share the extremely narrow approach road to the tip which is more often than not full of cars queuing… To enter the site, because of cars queuing to go to the tip, the huge scaffolding lorries and Clancy vans cross onto the opposite side of the road to jump the tip queue. I was queuing for the tip last week and in the space of 15 minutes, 7 vehicles of various sizes, crossed to the wrong side, overtook my car and the queue! The scaffolding lorries are also too big to just turn into the approach road and have to swing over to the other side of the narrow approach road. This is NOT acceptable or safe and very dangerous”[[7]](#footnote-7)*

1. Residents have also provided videos and photos, particularly those shared on a public Google Drive folder[[8]](#footnote-8), in addition to written representations. These photos and videos have date ranges of 2023 and 2025 and show the Appellant’s vehicles at the entrance to the access road, and turning in and out of it, at different hours of the day.
2. It is unsurprising that, given the residents’ lived experience of the Appellant’s activities, the Council both (a) rejected the application for retrospective planning permission and (b) has pursued enforcement action, because of an unacceptable impact on residential amenity. That is really what this inquiry is all about: local people being negatively impacted by a commercial development in a residential area, with real concerns about road safety and noise pollution.

The Council’s case, Appeal B

The RRC

1. Mr Jim Cowan is the Head of Neighbourhood Management for the Council, and is the Council’s representative and contract manager for the RRC. Mr Cowan’s evidence is that the RRC does not cause noise nuisance on a scale that could be considered systematic or requiring further investigation. Mr Cowan explains that while Veolia use HGVs, they use a dedicated and separate entrance to the RRC on Churchfields road, and they do not use the access road used by the Appellant’s HGVs[[9]](#footnote-9). Mr Cowan explains that prior to the Appellant’s operations, no HGVs regularly used the access road[[10]](#footnote-10). Mr Cowan explains that, because of the system on the access road of cars queuing to access the RRC, the introduction of the appellant’s HGVs poses a traffic collision risk[[11]](#footnote-11), with HGVs bypassing the queuing cars by driving on the wrong side of the road. Mr Cowan also explains that there was an road traffic accident on the approach road on 08 October 2024, involving a member of public’s vehicle leaving the RRC, and a vehicle coming from the wider London Electricity Board site. Mr Cowan confirms that Clancy’s have confirmed that they are undertaking a significant upgrade to the electricity cabling network in Sydenham, and they are using the depot as an operational base for that project. On completion of the project, Clancy have confirmed that the operational use of the access road will return to normal, which Mr Cowan explains means Clancy will have no HGV use on the access road, and 100% of HGV use on the access road will be attributable to the Appellant.

Noise

1. For the first main issue, noise, the Council’s case is that the proposed development has had and continues to have a detrimental impact on residential amenity[[12]](#footnote-12) because of noise from the Appellant’s activities. The Council’s case is also that the Appellant has not demonstrated that the negative impacts of the noise can be successfully mitigated or controlled[[13]](#footnote-13).
2. Mr Daniele Fiumicelli gives evidence for the Council about noise. Mr Fiumicelli analysed in detail the report provided by Waterman Consulting for the Appellant, including the technical data which underpinned that report. Mr Fiumicelli concluded that “*The appellant’s noise assessment understates the impact of operations at the Masons site both in terms of the intensity of the noise… and the spread of impact”*. Mr Fiumicelli conducted his own baseline noise survey from a residential property on clockhouse road. The background levels of noise that he measured were less than those measured by the Appellant, implying a greater potential than was allowed for by the Appellant of impact from the site’s activities. Having analysed the Appellant’s model, he determined that an accurate reflection of the noise should be up to 5 decibels higher, than that which is presented in the Appellant’s report. Mr Fiumicelli concludes that the Appellant’s operations are more properly characterised as having a Significant Observed Adverse Effect Level (“SOAEL”); rather than the No Observed Adverse Effect Level (“NOEL”) or Lowest Observed Adverse Effect Level (“LOAEL”) as characterised by the Appellant. Mr Fiumicelli points out a number of technical inaccuracies regarding the Appellant’s modelling, concerning for example, ground absorption, barrier reflection, and HGV movements, as well as, more fundamentally, the wrong heights being used to sustain the noise contour “heat maps” diagrams. Mr Fiumicelli explains that the Appellant has underestimated the tonality of pole cutting activities. Mr Fiumicelli also finds that the Appellant’s estimations of noise from vehicles accessing and leaving the site has been underestimated by up to 16 decibels: i.e., the Appellant is wrong by a factor of three.
3. Mr Fiumicelli notes that on his own visits, he heard the noise of metal poles banging together, and he formed the view that that noise was adverse to residential amenity.
4. The evidence of Mr Fiumicelli is in direct contrast to that of the Ms Innes Urbanski for the Appellant, who maintains that what noise there is has no impact on residential amenity[[14]](#footnote-14). Mr Fiumicelli examines the Appellant’s proposed mitigation measures. He finds that the plastic strips provided by the Appellant to enclose the area where pole cutting takes place are “*effectively acoustically transparent*”. He concludes that the Appellant has not demonstrated noise will not be detrimental to residential amenity, or that the Appellant has shown adverse noise impacts can be adequately mitigated.

Highways Safety

1. On the second main issue, the Council’s case is 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[[15]](#footnote-15).
2. Mr Nojan Rastani gives evidence for the Council about highways safety. Mr Rastani explains that there are safety issues at (i) the junction of the access road, and (ii) on the access road itself. Mr Rastani explains the photographic and video evidence provided by the residents shows the misuse of the designated access road by HGV drivers entering and exiting the site, and “*repeated instances of near misses and behaviours that pose a considerable risk to highway and pedestrian safety*”[[16]](#footnote-16). Mr Rastani explains that the access road at the junction is fundamentally unsuitable for the type of vehicular traffic involved[[17]](#footnote-17), because of its width, because of the type of HGVs used by the Appellant, and because of the tight turn required. The presence of the kerb and parked cars leaves the Appellant’s trucks swinging to the far side, and swinging to the wrong side of the road. In Mr Rastani’s analysis, the conditions prevent safe access. The presence of pedestrians, particularly children, and the fact that it is not a controlled junction cause significant concern. Mr Rastani explains that “*Due to their greater size, weight, and limited visibility, HGVs are disproportionately involved in incidents resulting in fatalities or serious injuries (KSIs)”*, and he provides a statistical basis for that conclusion. In discussing safety issues on the access road, Mr Rastani explains the Appellant’s behaviour of driving on the wrong side of the road is unsafe, is in contravention of the Highway Code, and is indeed dangerous[[18]](#footnote-18).
3. Mr Rastani disagrees with the premise of the Appellant’s Transport Rebuttal dated 07 April 2025 that “*it is evident that vehicles can manoeuvre safely*”. Mr Rastani criticises the Appellant’s Road Safety Audit for being conducted between 10.45-11.30am, the period “*with the lowers levels of Masons vehicle activity and minimal school-related pedestrian movement*”[[19]](#footnote-19). Mr Rastani does not consider that the Appellant’s offer to mitigate and control would work, in part because the Appellant does not consider there to be any highway safety issue.

Planning

1. Karen Daye gives evidence about the overall planning balance. Ms Daye recognises benefits posed by the scheme, finding that limited weight can be attributed to the economic benefits arising from a modest number of jobs, and that moderate weight can be given to the intensification of non-designated employment land. However, those benefits are to be weighed against the adverse effects. Ms Daye attributes substantial weight to both (i) the harms identified by Mr Fiumicelli concerning noise; and (ii) the harms identified by Mr Nostani concerning highways safety. Ms Daye concludes that the adverse impacts of the use far outweigh the benefits when assessed against the Development Plan and policies of the NPPF[[20]](#footnote-20), and that the proposal remains in conflict with local and regional planning policy.

Feasibility of conditions

1. It is notable that the testimony of the residents shows the Appellant frequently operating late into the evenings and on Sundays, which is in excess of the hours for which it sought permission (6am to 4pm)[[21]](#footnote-21). The Appellant’s Statement of Case[[22]](#footnote-22) then introduced the concept of “Out Of Hours” working, which appears to be licence for any hours the Appellant wishes to operate. Plainly, it is correct that the proposed hours of operation do not align with what is happening in practice. It is no surprise therefore that multiple comments from residents express a lack of trust in the Appellant keeping to any meaningful conditions on their operations, particularly comments submitted in the appeal stage. To give one example, the Appellant has known about the residents’ concerns all year, but has continued to operate its vehicles during school pickup and drop off irrespective, including over the summer term of 2025. Conditions are also inherently problematic because the unpredictable nature of the noise is reliant on individual driver and operative behaviour[[23]](#footnote-23), which means there is only so much that a condition could ever do, were an individual employee to get it wrong, be in a hurry, or be inexperienced and covering for a colleague. This is good and sufficient information to say that the Inspector cannot have confidence that the Appellant will keep to conditions imposed upon it.

The Council’s Case – Appeal A

1. The Council’s case on the appeal under ground (e) is that it is satisfied the Notice has been served correctly on the Appellant and on Mason’s scaffolding. The Council accepts it has not served the Notice on London Power Networks PLC, but denies any prejudice.
2. The Council accepts, as does the Appellant, that the issues for the Appeal under ground (f) will be dealt with under Appeal B, above.
3. The Council’s case on the appeal under ground (g) is that the Appellant could benefit from more time than was afforded.

Conclusion

1. The Appellant’s activities are having a detrimental impact on residential amenity that is not supportable in planning terms. There is no realistic way to mitigate or condition the harms caused. The Council invites the Inspector to dismiss both appeals.

Peter Cruickshank

6 Pump Court

18 August 2025

1. Printed to accompany this Opening Note [↑](#footnote-ref-1)
2. Printed to accompany this Opening Note [↑](#footnote-ref-2)
3. Printed to accompany this Opening Note [↑](#footnote-ref-3)
4. 3P- Holmes M - 1164538 - INTERESTED PARTY.pdf [↑](#footnote-ref-4)
5. 3P- Mclaughlin E - 1173219 - INTERESTED PARTY.pdf [↑](#footnote-ref-5)
6. 3P- Stainsby W - 1165978 - INTERESTED PARTY.pdf [↑](#footnote-ref-6)
7. 3P- Ubee L - 1173318 - INTERESTED PARTY.pdf [↑](#footnote-ref-7)
8. <https://photos.app.goo.gl/cXq8QLkKUT8CuEDi7> [↑](#footnote-ref-8)
9. Mr Cowan proof of evidence, para 4.4 [↑](#footnote-ref-9)
10. Mr Cowan proof of evidence, para 5.3. [↑](#footnote-ref-10)
11. Mr Cowan proof of evidence, para 5.4 [↑](#footnote-ref-11)
12. Council’s statement of case, para 7.11. [↑](#footnote-ref-12)
13. Council’s statement of case, para 7.16. [↑](#footnote-ref-13)
14. Ms Urbanski proof of evidence, paragraph 1.1 [↑](#footnote-ref-14)
15. Council’s statement of case, para 7.29. [↑](#footnote-ref-15)
16. Mr Rostani proof of evidence, para 2.5 [↑](#footnote-ref-16)
17. Mr Rostani proof of evidence, para 6.8. [↑](#footnote-ref-17)
18. Mr Rostani, proof of evidence, para 6.15 [↑](#footnote-ref-18)
19. Mr Rostani, proof of evidence, para 8.7 [↑](#footnote-ref-19)
20. Ms Daye, proof of Evidence, para 7.5 [↑](#footnote-ref-20)
21. Application form (CD1.2) [↑](#footnote-ref-21)
22. CD8.01, para 05.4.7 [↑](#footnote-ref-22)
23. Ms Daye, proof of evidence, para 7.7 [↑](#footnote-ref-23)