



Department for Levelling Up,
Housing & Communities

Sean Tickle
Rolfe Judd Planning Ltd
Old Church Court
Claylands Road
London
SW8 1NZ

Our ref: APP/N5660/W/21/3285463
Your ref: 20/01066/EIAFUL

26 August 2022

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY URBAN & PROVINCIAL
LAND EAST OF WINDSOR GROVE, WEST NORWOOD, LONDON
APPLICATION REF: 20/01066/EIAFUL**

This decision was made by the Minister of State for Housing, Marcus Jones MP, on behalf of the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of Richard Clegg BA(Hons) DMS MRTPI, who held a public local inquiry on 1-4, 7 & 8 March 2022 into your client's appeal against the decision of the Council of the London Borough of Lambeth to refuse your client's application for planning permission for demolition of all existing buildings and structures and the provision of a new building and associated hard and soft landscaping in respect of the use of the site as a metal recycling and management facility, in accordance with application Ref. 20/01066/EIAFUL, dated 13 March 2020.
2. On 10 January 2022, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed, and planning permission granted subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. He has decided to allow the appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Having taken account of the Inspector's comments at IR4, the Secretary of State is satisfied that the Environmental Statement complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Matters arising since the close of the inquiry

6. A list of representations received by the Secretary of State since the close of the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.

Policy and statutory considerations

7. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case the development plan consists of The London Plan 2021 and the Lambeth Local Plan 2020-2035. The Secretary of State considers that relevant development plan policies include those set out at IR18-24.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Noise Policy Statement for England, and the National Planning Policy for Waste (NPPW).

Main issues

The character of the area

10. For the reasons given at IR142-150 and IR186, the Secretary of State agrees with the Inspector that the proposed development would not materially alter the character of Windsor Grove, nor that of the surrounding area more generally (IR150). For the reasons given, he agrees that the proposed recycling facility in this area of mixed uses would not detract from the character of the area nor unacceptably worsen the living conditions of local residents and considers the proposal would be consistent with paragraphs 9, 124(d) and 119 of the Framework (IR186).

The amenity of pedestrians, cyclists and local residents

Pedestrians and cyclists

11. For the reasons given at IR151-153, IR176-7 and IR187, the Secretary of State agrees with the Inspector that the development would cause a minor level of harm to the environment for pedestrians and cyclists, but that this would not amount to an unacceptable effect (IR153). For the reasons given at IR176, the Secretary of State agrees with the Inspector that, while traffic noise would contribute to a less pleasant

experience for pedestrians and cyclists on Windsor Grove, the proposal would avoid significant adverse noise impacts on their quality of life, as required by Policy D14 of The London Plan (IR176). He further agrees that, whilst the proposal would be consistent with Policy T4 of The London Plan, it would not be supported by Policy T2 which is concerned with Healthy Streets (IR177). He also agrees that the proposal would be consistent with paragraphs 110(b) and (d) of the Framework (IR187). The Secretary of State affords this harm limited weight.

Local residents

12. For the reasons given at IR154-157 and IR180, the Secretary of State agrees with the Inspector and does not consider that operational noise from the recycling operation on the appeal site would materially harm the living conditions of nearby residents within their dwellings or their outdoor amenity space (IR154). In agreement with the Inspector, the Secretary of State does not find that the nature of the noise arising from traffic movements would have an unacceptable impact on the living conditions of local residents, and in this respect the proposal would comply with part (v) of Policy Q2 of the Local Plan (IR155). He further agrees that in an area of mixed uses such as this, the predicted increase in commercial vehicles would not be so great as to be visually intrusive from the dwellings in the locality, and would not be contrary to part (i) of Policy Q2 of the Local Plan (IR156).
13. Overall, the Secretary of State agrees with the Inspector that the proposed development would not adversely affect the living conditions of local residents, and that accordingly it would not conflict with Policy Q2 of the Local Plan (IR157).

Highway safety and traffic movement

14. For the reasons given at IR158-165 and IR180, the Secretary of State agrees that the proposed development would neither reduce highway safety nor impair traffic movement in the locality, and it would not conflict with Policy T4 of The London Plan or Policy T1(G) of the Local Plan (IR165).

The sustainable management of waste

15. For the reasons given at IR166-173 and IR179, the Secretary of State agrees with the Inspector that the proposed development would contribute to the sustainable management of waste in Lambeth (IR173). He agrees with the Inspector that in supporting the circular economy and encouraging waste minimisation through the reuse of materials the proposal would be in accordance with parts A(i) and A(ii) of Policy EN7 of the Local Plan and would be consistent with parts A(1) and 2 of Policy SI7 of The London Plan (IR166). He agrees that, while the development would cause a minor level of harm to the environment for pedestrian and cyclists, this would not amount to an unacceptable effect, and this factor would not, therefore, render the level of intensification proposed inappropriate (IR167). He also agrees that, taking the loss of Shakespeare Road into account, the proposal would provide, at most, additional capacity for Lambeth of 4,697tpa, and that, whilst that would be beneficial, it would only make a modest contribution to addressing the capacity gap (IR168).
16. For the reasons given at IR169-172, the Secretary of State further agrees that the proposal would comply with criteria 1-5 of Part E of Policy SI8 of The London Plan (IR170) and the locational criteria of the NPPW (IR171-172) and also does not consider that the prospect of suitable land coming forward in the future should be a reason to

discount the contribution from a firm proposal to use the land at the appeal site for waste management (IR169).

17. The Secretary of State agrees with the Inspector that the proposal would contribute to sustainable waste management in Lambeth, and in doing so would comply with the relevant parts of Policy EN7 of the Lambeth Local Plan (IR179) and that the proposal would fall within the range of uses envisaged as appropriate for KIBAs (Key Industrial and Business Areas) in Policy ED3 of the Lambeth Local Plan (IR179). For the reasons given at IR185, the Secretary of State agrees that the redevelopment of the appeal site within a KIBA would be consistent with the policy intentions of paragraphs 81, 119 & 120 of the Framework (IR185). The Secretary of State agrees with the Inspector at IR173 that the contribution to the sustainable management of waste in Lambeth carries moderate weight in support of the proposal.

Nature conservation

18. The Secretary of State notes that the redevelopment of the appeal site would harm part of the SINC (Site of Importance for Nature Conservation) (IR178). For the reasons given at IR178, IR183-184 and IR188, the Secretary of State agrees with the Inspector that the extent of the biodiversity net gain is a clear benefit of the scheme (IR184). He also agrees that the additional planting to the south-west and south-east of the recycling shed, the green wall and green roof, would contribute to the greening of London and be consistent with Policy G5 of The London Plan, and that measures to improve biodiversity are proposed in line with the mitigation strategy sought in Policy G6(C) of The London Plan (IR178). With reference to the Framework, he further agrees that there would be no conflict with paragraph 180 on this matter (IR188). Overall the Secretary of State agrees with the Inspector that the extent of the biodiversity net gain attracts significant weight in support of the proposal (IR184).

Other matters

Compensatory capacity

19. For the reasons given at IR190-191, the Secretary of State agrees with the Inspector that the removal of a barrier to the implementation of the planning permission for housing on the Shakespeare Road site is a benefit which merits no more than moderate weight (IR190). He further agrees that the appeal site is not required as compensatory capacity for sites occupied by Southwark Metals, and is able to fulfil this function in respect of Shakespeare Road (IR191).

Air quality

20. For the reasons given at IR192, the Secretary of State agrees with the Inspector that, with the detailed safeguards in place, the proposal would not result in a worsening of air quality and would not conflict with Policy S1 of The London Plan (IR192).

Fallback position

21. For the reasons given at IR198, the Secretary of State agrees with the Inspector that reinstatement on car breaking as outlined by the Appellant would necessarily involve works to the hardstanding which would require planning permission. He agrees that no weight should be given to the claimed fallback position (IR198).

Employment

22. For the reasons given at IR175 and IR202, the Secretary of State agrees that, as the proposal would involve the relocation of an established firm, not all of the jobs provided at Windsor Grove are likely to represent a net gain in employment (IR175) but that local employment opportunities would be a benefit of the development (IR202). The Secretary of State affords this benefit limited weight.

Planning conditions

23. The Secretary of State has given consideration to the Inspector's analysis at IR199-200, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of his decision.

Planning obligations

24. Having had regard to the Inspector's analysis at IR193-197, the planning obligation dated 29 March 2022, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR197 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 57 of the Framework.

Planning balance and overall conclusion

25. For the reasons given above, the Secretary of State considers that while the appeal scheme is not in strict accordance with development plan policy relating to the Healthy Streets assessment (Policy T2 of The London Plan Policy) it is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

26. Weighing in favour of the proposal is the contribution to the sustainable management of waste and a modest reduction in the capacity gap; and removal of a barrier to the implementation of a planning permission for housing at the Shakespeare Road facility which are each afforded moderate weight. The biodiversity net gain is afforded significant weight. Local employment opportunities are afforded limited weight.

27. Weighing against the proposal is the impact of an increase in traffic making conditions on Windsor Grove less pleasant for pedestrians and cyclists, which is afforded limited weight.

28. Overall, the Secretary of State considers that the accordance with the development plan and the material considerations in this case indicate that permission should be granted.

29. The Secretary of State therefore concludes that the appeal be allowed, and planning permission granted subject to conditions decision.

Formal decision

30. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex B of this decision letter for demolition of all existing buildings and structures and the provision of a new building and

associated hard and soft landscaping in respect of the use of the site as a metal recycling and management facility, in accordance with application Ref. 20/01066/EIAFUL, dated 13 March 2020.

31. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

32. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

33. A copy of this letter has been sent to Council of the London Borough of Lambeth and The Community, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Phil Barber

Decision officer

This decision was made by the Minister of State for Housing, Marcus Jones MP, on behalf of the Secretary of State, and signed on his behalf

Annex A Schedule of representations

General representations

Party	Date
The Community	13 June 2022
Helen Hayes MP	24 June 2022
Helen Hayes MP	12 July 2022
Rolfe Judd (on behalf of the appellant)	25 July 2022

Annex B

Schedule 1 - List of conditions

- 1) The development hereby permitted shall commence before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

- 2) The development hereby permitted shall be carried out in accordance with the plans listed in schedule 2.

Reason: To provide certainty.

- 3) No non-road mobile machinery (NRMM) shall be used on the site unless it is compliant with the NRMM Low Emission Zone requirements (or any superseding requirements) and until it has been registered for use on the site on the NRMM register (or any superseding register).

Reason: To ensure that air quality is not adversely affected by the development in line with Policy SI1 of The London Plan and the Mayor's SPG: The Control of Dust and Emissions During Construction and Demolition.

- 4) No development shall commence until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to and approved in writing by the local planning authority:

- i) A site investigation scheme to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
- ii) The site investigation results and the detailed risk assessment resulting from (i).
- iii) An options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv) A verification plan providing details of the data that will be collected to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: To safeguard users and occupiers of the site and the wider environment from risks associated with contaminants by ensuring that the contaminated land is properly treated and made safe before development, in accordance with Policy EN4 of the Lambeth Local Plan.

- 5) Prior to occupation of any part of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for

contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason: To safeguard users and occupiers of the site and the wider environment from risks associated with contaminants by ensuring that the contaminated land has been properly treated and made safe, in accordance with Policy EN4 of the Lambeth Local Plan.

- 6) If, during development, contamination not previously identified is found to be present at the site, then no further development shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the remediation strategy detailing how this unsuspected contamination will be dealt with in accordance with the objectives of the previously approved remediation strategy.

Reason: To safeguard users and occupiers of the site and the wider environment from risks associated with contaminants by ensuring that the contaminated land is properly treated and made safe, in accordance with Policy EN4 of the Lambeth Local Plan

- 7) No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Measures should also be employed to reduce the potential adverse effects of vibration such as the use of the pressed-in method for sheet piling rather than driven, should site conditions allow. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: To ensure that the development does not harm groundwater resources in line with the National Planning Policy Framework (Paragraph 170), and to safeguard residential amenity and biodiversity value around the site during the whole of the construction period, having regard to Policy Q2 of the Lambeth Local Plan and Policy SI5 of The London Plan.

- 8) No development shall commence until mitigation measures to address the effect on air quality and dust emissions have been put in place in accordance with an air quality and dust management plan (AQDMP), which has been submitted to and approved in writing by the local planning authority. The AQDMP shall include the following:
- i) A summary of work to be carried out.
 - ii) Proposed haul routes, location of site equipment including supply of water for damping down, source of water, drainage and enclosed areas to prevent contaminated water leaving the site.
 - iii) An inventory and timetable of all dust and NO_x air pollutant generating activities.
 - iv) A list of all dust and emission control methods to be employed and how they relate to the AQDMP.
 - v) Details of any fuel stored on-site.

- vi) Details of a trained person on-site who is responsible for air quality.
- vii) A summary of monitoring protocols and agreed procedure of notification to the local planning authority.
- viii) A log book for action taken in response to incidents or dust-causing episodes, the mitigation measures taken to remedy any harm caused, and measures employed to prevent a similar incident reoccurring.
- ix) Details of automatic continuous PM10 monitoring which should be carried out on the site.

Baseline monitoring must commence at least three months before the commencement of the enabling works. If baseline monitoring cannot begin during this time frame, PM10 data for this 3 months advance period from monitors already in place at the site may be submitted, subject to the approval of details by the local planning authority. Monitors must then be installed on-site at locations indicative of exposure of sensitive receptors to dust emitted from works from the commencement of development and should continue throughout the construction period. The development shall thereafter be carried out and monitored in accordance with the details and measures in the approved AQDMP.

Reason: To manage and mitigate the impact of the development on air quality and dust emissions in the area, and to avoid unacceptable damage to the environment, in accordance with Policy SI1 of the London Plan and the London Plan Supplementary Planning Guidance for Sustainable Design and Construction and Control of Dust and Emissions during Construction and Demolition.

- 9) No development shall commence until a construction and environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details set out in the Environmental Statement Volume 1, Chapter 14 Mitigation and Monitoring Schedule, including the following measures:
 - i) An introduction consisting of construction environmental management plan, definitions and abbreviations and project description and location.
 - ii) A description of management responsibilities.
 - iii) A description of the construction and demolition programme which identifies activities likely to cause high levels of noise, vibration or dust.
 - iv) Site working hours and a named person for residents to contact.
 - v) Detailed site logistics arrangements.
 - vi) Details of parking, delivery, and storage arrangements.
 - vii) Details regarding dust and noise mitigation measures to be deployed including identification of sensitive receptors, together with arrangements for ongoing continuous monitoring and provision of monitoring results to the local planning authority.
 - viii) Measures to prevent the deposit of mud and debris on the public highway.
 - ix) Measures to mitigate the impact of construction upon the safety of the surrounding area for cyclists.

- x) Any other measures to mitigate the impact of construction upon the amenity of the area and the safety of the highway network.
- xi) A temporary lighting strategy.
- xii) Measures to heighten awareness of the potential for ecological features as set out in the Environmental Statement Volume 1, Chapter 11 Ecology and Biodiversity.
- xiii) Communication arrangements with the local planning authority and the local community.
- xiv) Details demonstrating that Street Space for London Plan guidance informed the CEMP.

The development shall be carried out in accordance with the approved CEMP.

Reason: To avoid hazard and obstruction being caused to users of the public highway and to safeguard residential amenity and biodiversity value around the site during the construction period, in accordance with Policies T7, EN1 and Q2 of the Lambeth Local Plan.

- 10) A construction traffic management plan (CTMP) shall be submitted to the local planning authority prior to the commencement of construction works which shall set out measures to control the effect of the construction process on the local transport network. The CTMP shall include:
- i) Construction traffic access routes.
 - ii) The timing of construction traffic movements.
 - iii) Traffic management procedures for waste disposal vehicles.
 - iv) Personnel and vehicle segregation.
 - v) Traffic management equipment including signage.
 - vi) Arrangements for the loading and unloading of vehicles.
 - vii) A construction travel plan which encourages the use of public transport.
 - viii) Details of wheel washing facilities.
 - ix) Arrangements for road sweeping on nearby roads.
 - x) Traffic management measures to minimise the effect of construction traffic on the local road network.

The development shall be carried out in accordance with the approved CTMP.

Reason: To avoid hazard and obstruction being caused to users of the public highway and to safeguard residential amenity during the construction period, in accordance with Policies T7 and Q2 of the Lambeth Local Plan.

- 11) No development shall take place until measures to safeguard trees have been implemented in accordance with an arboricultural impact assessment, which has been submitted to and approved in writing by the local planning authority. The measures in the assessment shall be maintained until the completion of the

development and shall reflect the details in the Environmental Statement Volume 1, Chapter 14 Mitigation and Measures.

Reason: To ensure the retention of, and avoid unacceptable damage to, the retained trees on the in accordance with Policy G7 of The London Plan and Policy Q10 of the Lambeth Local Plan.

- 12) No development shall take place until details of a sustainable drainage system (SDS), including its implementation, maintenance and management, have been submitted to and approved by the local planning authority. The SDS should reflect the mitigations and measures set out in the Environmental Statement Volume 1. The proposed drainage outfalls must account for the potential surcharging of the culverted River Effra. Non-return valves and appropriate cover levels should be applied to avoid any sewer surcharge entering the private drainage network within the site. The SDS shall include:

- i) Information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, and the measures taken to prevent pollution of the receiving groundwater and/or surface waters.
- ii) A timetable for implementation of the system.
- iii) A management and maintenance plan, which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the SDS throughout the lifetime of the development.

The approved SDS shall be implemented and thereafter managed and maintained in accordance with the approved scheme and timetable.

Reason: To manage the water environment of the development and to mitigate the impact on flood risk, water quality, habitat and amenity value, in accordance with Policies EN5 and EN6 of the Lambeth Local Plan and Policy SI12 of The London Plan.

- 13) The development shall be constructed in accordance with the following flood mitigation measures identified in the Environmental Statement Volume 1:
- i) The finished floor level of the buildings within the development shall be a minimum of 48.57m AOD to minimise any surface water flooding effects on the proposed development.
 - ii) Any critical equipment or plant key to the operation of the proposed metal recycling and management facility that could be affected by potential flooding should be located at a safe appropriate level to avoid any risk or damage.

Reason: In order to mitigate the impact of a flood event on users of the development, having regard to Policy SI12 of The London Plan and Policy EN5 of the Lambeth Local Plan.

- 14) Prior to commencement of above-ground works on site, a Building Research Establishment Environmental Assessment Method (BREEAM) pre-assessment should be submitted to and approved in writing by the local planning authority demonstrating that a rating of 'Excellent' has been achieved. (If this is not possible,

justification and a minimum of Very Good should be achieved with a minimum score of 63%).

Within six months of work commencing on site, BREEAM Design Stage certificates and summary score sheets should be submitted to and approved in writing by the local planning authority demonstrating that a rating of 'Excellent' has been achieved. (If this is not possible, justification and a minimum of Very Good should be achieved with a minimum score of 63%).

Within six months of first occupation, BREEAM Post Construction certificates and summary score sheets for both assessments should be submitted to and approved in writing by the local planning authority demonstrating that a rating of 'Excellent' has been achieved, and that a minimum of one credit has been achieved for Wat 01 'Water Consumption' in both BREEAM assessments. (If BREEAM Excellent is not possible, justification and a minimum of Very Good should be achieved with a minimum score of 63%).

Reason: To ensure that the development has an acceptable level of sustainability, having regard to Policy EN4 of the Lambeth Local Plan and Policy SI2 of The London Plan.

- 15) Prior to the commencement of the above-ground works of the development, the applicant should submit an Overheating Assessment Report showing that the risk of overheating has been reduced in line with the Mayor's cooling hierarchy. The report should demonstrate compliance against CIBSE TM52, should provide the results from testing using CIBSE TM49 and should demonstrate that the cooling hierarchy has been followed and the reliance on active cooling has been minimized. The mitigation measures shall thereafter be retained for the lifetime of the development.

Reason: To ensure that the design of the development reduces the potential for overheating and reliance on air conditioning systems, having regard to Policies SI2 and SI4 of The London Plan.

- 16) Prior to the occupation of the development hereby permitted, evidence should be submitted to and approved in writing by the Local Planning Authority to demonstrate that water metering, water saving and leak detection measures have been incorporated into the design (and justification provided where these measures are deemed inappropriate). The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the development would achieve an acceptable standard of water efficiency, having regard to Policy SI5 of the London Plan.

- 17) Prior to first occupation of the development, As Built Simplified Building Energy Model (SBEM) calculations as an output of the National Calculation Method should be submitted to and approved in writing by the Local Planning Authority demonstrating that the development has achieved a minimum of 50% reduction in carbon emissions over that required by Part L of the Building Regulations 2013, in line with the Energy Report by Waterman Building Services Ltd, May 2020.

Reason: To ensure that the development makes the maximum contribution to minimising carbon dioxide emissions, having regard to Policies SI2 and SI3 of The London Plan and Policy EN3 of the Lambeth Local Plan.

- 18) Prior to commencement of the above ground works of the development hereby permitted, a landscape ecological management plan (LEMP) shall be submitted to and approved in writing by the local planning authority. All tree, shrub and hedge planting included within the scheme shall accord with BS3936:1992, BS4043:1989 and BS4428:1989 (or subsequent superseding equivalent) and current arboricultural best practice.

The LEMP shall demonstrate that a minimum net biodiversity gain value of 113% and a minimum urban greening factor of 0.48 would be achieved. The LEMP shall include the following:

- i) The treatment of all parts of the site not covered by buildings including walls and boundary features.
- ii) The quantity, size, species, position and the proposed time of planting of all trees and shrubs to be planted including details of appropriate infrastructure to support long-term survival.
- iii) An indication of how all trees and shrubs will integrate with the proposal in the long term with regard to their mature size and anticipated routine maintenance and protection including irrigation systems.
- iv) Details of infrastructure to maximise rooting capacity and optimize rooting conditions.
- v) Details of all shrubs and hedges to be planted that are intended to achieve a significant size and presence in the landscape.
- vi) All hard landscaping features.
- vii) Biodiversity mitigation and enhancement measures (including bird and bat boxes, wildflower grassland, bulbs, native planting, hedgehog nesting opportunities, and habitats for invertebrates and reptiles) as set out in the Environmental Statement Volume 1, Chapter 14 (Mitigation and Measures) – Table 14.5.

The development shall be thereafter carried out in accordance with the approved LEMP, and the relevant aspects of the development specified in the LEMP shall be completed prior to the date of occupation of the site.

Reason: In order to introduce high quality landscaping in and around the site in the interests of the ecological value of the site, and to ensure satisfactory landscaping of the site in the interests of visual amenity, having regard to Policy G6 of The London Plan and Policies EN1, Q2, Q6, Q9, and Q10 of the Lambeth Local Plan.

- 19) All planting, seeding or turfing comprised in the approved landscaping scheme shall be carried out in the first planting and seeding season following the initial occupation of the development hereby permitted or the substantial completion of the development, whichever is the sooner. Any trees, hedgerows or shrubs forming part of the approved landscaping scheme which within a period of five years from the initial occupation or substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In order to establish high quality soft landscaping in and around the site in the interests of the ecological value of the site and to ensure a satisfactory landscaping of the site in the interests of visual amenity, having regard to Policy G6 of The London Plan and Policies EN1, Q2, Q9 and Q10 of the Lambeth Local Plan.

- 20) Within six months of construction work starting on site, a detailed specification of the green roof and living wall shall be submitted to and approved in writing by the local planning authority. The specification shall include details of the quantity, size, species, position and the proposed time of planting of all elements of the green roof and wall, together with details of their anticipated routine maintenance and protection.

The green roof and living wall shall be installed prior to occupation of the development and thereafter maintained in accordance with the approved details and shall be retained for the lifetime of the development.

Reason: In order to promote biodiversity and rainwater attenuation on the site, having regard to Policies G1, G5, SI2 and SI13 of The London Plan and Policies EN1, EN4, EN5, EN6 and Q9 of the Lambeth Local Plan.

- 21) If within 5 years of the installation of the green roof any planting forming part of the green roof shall die, be removed, or become seriously damaged or diseased, then this planting shall be replaced in the next planting season with planting of a similar size and species.

Reason: To safeguard the visual amenities of the area and to ensure that the development has an acceptable level of sustainability and biodiversity, having regard to Policies G1, G5, SI2 and SI13 of The London Plan and Policies EN1, EN4, EN5, EN6 and Q9 of the Lambeth Local Plan.

- 22) The operation of the development hereby permitted shall not commence until a travel plan has been submitted and approved in writing by the local planning authority. The measures in the travel plan which are required to be implemented before occupation shall be so implemented prior to the initial occupation and shall be so maintained for the duration of the development.

Reason: To promote sustainable transport modes, having regard to paragraph 110(a) of the National Planning Policy Framework, Policies T1 and T4 of The London Plan and Policies T1 and T6 of the Lambeth Local Plan.

- 23) Prior to initial occupation of the development hereby permitted, cycle parking facilities shall be provided in accordance with a scheme which has been submitted to, and approved in writing by, the local planning authority.

Reason: To promote sustainable modes of transport, having regard to paragraph 110(a) of the National Planning Policy Framework, Policy T5 of The London Plan, and Policies T1, T3 and Q13 of the Lambeth Local Plan.

- 24) The development hereby permitted shall not commence operation until a deliveries and servicing management plan (DSMP) has been submitted and approved in writing by the local planning authority. The DSMP should include the following details:

- i) A booking system for the arrival of all Heavy Goods Vehicles (HGVs) at all times, including a definition of 'HGVs'.

- ii) The frequency of other servicing vehicles such as refuse collection vehicles.
- iii) The dimensions of delivery and servicing vehicles.
- iv) Proposed loading and delivery locations.
- v) A strategy to manage vehicles servicing the site.
- vi) A strategy to prevent vehicles accessing the site from parking in Windsor Grove.
- vii) A monitoring strategy to monitor the performance of the DSMP.
- viii) With the exception of the disabled person's bay, a restriction on the use of the parking spaces to operational vehicles.

The development hereby permitted shall thereafter be operated in accordance with the approved DSMP.

Reason: To protect the living conditions of nearby residents and the character of the surrounding area, having regard to Policies T4 and T9 of The London Plan and Policies Q2 and T7 of the Lambeth Local Plan, and to prevent obstruction of vehicle movements on Windsor Grove.

- 25) No vehicles with a length in excess of 10.2m and/ or a height in excess of 4.35m shall be permitted to access the site.

Reason: To protect the living conditions of nearby residents and the character of the surrounding area, having regard to Policies T4 and T9 of The London Plan and Policies Q2 and T7 of the Lambeth Local Plan, and to prevent obstruction of vehicle movements on Windsor Grove.

- 26) There shall be no movement of N3 vehicles (as defined by the Vehicle Certification Agency) into or out of the site between 08.00-0900 hours and 15.00-16.00 hours during school terms.

Reason: To maintain highway safety.

- 27) During the times specified in condition 32 when the site is operating, the gates at the access from Windsor Grove shall remain open for the passage of vehicles.

Reason: To prevent obstruction of vehicle movements on Windsor Grove.

- 28) All of the vehicular parking spaces within the development hereby permitted shall be provided with charging points for electric vehicles.

Reason: To encourage the uptake of electric vehicles, having regard to Policies T6 and T6.1 of The London Plan.

- 29) The operator of the metal waste recycling facility hereby approved is required to:

- i) Achieve at least silver Fleet Operator Recognition Scheme accreditation within 12 months of first occupation of the site.
- ii) Ensure that the occupier's fleet of vehicles achieve at least Euro VI vehicle emission standards within 12 months of first occupation of the site.

Reason: To protect the amenities of the surrounding area and to limit the effects of the increase in travel movements, having regard to Policies T4 and T9 of The London Plan and Policies Q2 and T8 of the Lambeth Local Plan.

- 30) Prior to the initial occupation of the development hereby approved, details and full specifications of ventilation extraction and filtration equipment, and ongoing maintenance plan (including elevational drawings) shall be submitted to and approved in writing by the local planning authority. The ventilation shall incorporate the provision of NOx and PM2.5 filtration to reduce emissions released through the ventilation system during the operational phase of the development. The development hereby approved shall not be occupied until the approved details are fully implemented. The approved flues, extraction and filtration equipment shall thereafter be retained and maintained in working order for the duration of the development in accordance with the approved details.

Reason: To protect the living conditions of local residents, having regard to Policy D14 of The London Plan and Policy Q2 of the Lambeth Local Plan.

- 31) The operation of any fixed plant and building services plant, shall not commence until an assessment of the acoustic impact arising from the operation of all internally and externally located plant has been submitted to and approved in writing by the local planning authority.

The assessment of the acoustic impact shall be undertaken in accordance with BS 4142:2014 (or subsequent superseding equivalent) and shall include a scheme of attenuation measures to ensure the rating level of noise emitted from the proposed building services plant is 5dB less than the background sound level.

The operation of any building services plant shall not commence until a post-installation noise assessment has been carried out to confirm compliance with the noise criteria. The scheme of attenuation measures shall be implemented fully in accordance with the approved details and attenuation measures, and shall be retained and maintained in working order for the duration of the development.

Reason: To protect the living conditions of local residents and the character of the surrounding area, having regard to Policy D14 of The London Plan and Policy Q2 of the Lambeth Local Plan.

- 32) The development hereby permitted shall not operate other than within the following times: 08.00 to 17.00 hours Monday to Friday, and 08.00 to 13.00 hours on Saturday. There shall be no operation of the premises on Sundays, bank holidays and public holidays.

Reason: To protect the living conditions of local residents and the character of the surrounding area, having regard to Policy SI8 of The London Plan and Policy Q2 of the Lambeth Local Plan.

- 33) Prior to commencement of the above ground works of the development hereby permitted, an application for Secured by Design Certification shall be made for the development hereby approved. Prior to the first occupation of the development, evidence of the development having achieved Secured by Design certification shall be submitted to and approved in writing by the local planning authority. The scheme shall thereafter be maintained in accordance with the measures required to achieve certification.

Reason: To ensure that satisfactory attention is given to security and community safety, having regard to Policy GC6 of The London Plan and Policy Q3 of the Lambeth Local Plan.

- 34) Prior to the initial occupation of the development hereby permitted, an external lighting scheme shall be submitted to and approved in writing by the local planning authority. The scheme should be designed in accordance with the recommendations in the Institute of Lighting Professional's (ILP's) Guidance Notes for the Reduction of Obtrusive Light, and should refer to the mitigations and measures set out in the Environmental Statement Volume 1.

The approved lighting scheme shall not be brought into operation until validation that it has been installed in accordance with the recommendations in the ILP's Guidance Notes for the Reduction of Obtrusive Light has been submitted to and approved in writing by the local planning authority.

Reason: To protect the living conditions of local residents, the character of the surrounding area, and to safeguard the ecological value of the Railway Lineside – West Norwood SINC, having regard to Policy S18 of The London Plan and Policies Q2 and EN1 of the Lambeth Local Plan.

- 35) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the premises shall be used as a metal waste recycling facility and for no other purpose in Class B2 of the Town and Country (Use Classes) (Amendment) (England) Regulations 2020 or any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To safeguard waste capacity in the Borough, and to ensure that other uses are not introduced without further assessment, having regard to Policies ED3, EN7 and T6 of the Lambeth Local Plan.

- 36) The throughput capacity of the development hereby permitted shall not exceed 25,000 tonnes per year.

Reason: To protect the living conditions of local residents, the character of the surrounding area, and to limit the effects of the increase in travel movements, having regard to Policies S18 and T4 of The London Plan and Policies Q2 and T1 of the Lambeth Local Plan.

- 37) The development hereby permitted shall ensure noise breakout from the operation within the main structure does not exceed a noise level of 55dB_{LAeq,1-hour} at the south-west boundary of the site.

Reason: To protect the living conditions of nearby residents, having regard to Policy D14 of the London Plan and Policy Q2 of the Lambeth Local Plan.

Schedule 2 - plans and documents referred to in condition No 2

- 15656-101-WIE-ZZ-XX-DR-C-900100-P05 General Arrangement
- 15656-114-WIE-ZZ-XX-DR-C-900120-P01 Existing Contours
- 15656-114-WIE-ZZ-XX-DR-C-900121-P01 Proposed Contours
- 15656-114-WIE-ZZ-XX-DR-C-900122-P01 Cut Fill
- 15656-114-WIEZZ-XX-DR-C-900125-P01 Cross Section Plan
- 15656-114-WIE-ZZ-XX-DR-C-900126-P01 Cross Sections Sheet 1
- 15656-114-WIE-ZZ-XX-DR-C-900127-P01 Cross Sections Sheet 2
- 15656-114-WIE-ZZ-XX-DR-C-900130- P01 Screenshots
- 15656-WIE-ZZ-XX-DR-L-74001 P02 GA Landscape
- 15656-WIE-ZZ-XX-DR-L-74100 P02 GA Landscape
- 15656-WIE-ZZ-XX-DR-L-74101 P02 GA Trees Retained and Proposed
- 15656-WIE-ZZ-XX-DR-L-74200 P02 Hard Landscape
- 15656-WIE-ZZ-XX-DR-L-74300 P02 Soft Landscape
- B90100-P03-Existing Site Plan
- B90300-P02- Existing Site Sections
- B90301-P02-Existing site section S04
- B91100-P02-Site Location Plan
- T91100-P02-Ground Floor Site Plan
- T91102-P02-Site Roof Plan
- T91300-P02-Proposed Site Sections
- T91400-P02-Site entrance gate elevation & typical boundary
- TA20200-P02- Metal Recycling Shed Proposed Elevations
- TB20100-P02- Office Accommodation Ground & First Floor Plan
- TB20200-P02- Office Accommodation Proposed Elevations
- WG-WBS-ZZ-00-DR-E-63900 External Lighting Strategy



Report to the Secretary of State

by Richard Clegg BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Date 19 May 2022

TOWN AND COUNTRY PLANNING ACT 1990 COUNCIL OF THE LONDON BOROUGH OF LAMBETH

APPEAL BY URBAN & PROVINCIAL

Inquiry opened on 1 March 2022

Land east of Windsor Grove, West Norwood, London

File Ref: APP/N5660/W/21/3285463

File Ref: APP/N5660/W/21/3285463

Land east of Windsor Grove, West Norwood, London, SE27 9NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Urban & Provincial against the decision of the Council of the London Borough of Lambeth.
- The application Ref 20/01066/EIAFUL, dated 13 March 2020, was refused by notice dated 10 August 2021.
- The development proposed is: Demolition of all existing buildings and structures and the provision of a new building and associated hard and soft landscaping in respect of the use of the site as a metal recycling and management facility.
- The inquiry sat for six days, 1-4, 7 & 8 March 2022. A programme of site visits took place on 11 March 2022.

Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.

Procedural Matters

1. The appeal was recovered for a decision by the Secretary of State by a direction dated 10 January 2022, as it involves proposals which raise important or novel issues of development control, and/ or legal difficulties.
2. On the application form, the location of the site is given as *Former West Norwood Car Breakers, Windsor Grove, London*. At the case management conference, held on 20 December 2021, it was agreed that the site should be referred to as *Land east of Windsor Grove, West Norwood, London*, and I have identified it accordingly in the appeal details above.
3. The proposal is described on the application form as: *Clearance of temporary buildings and structures at the former West Norwood car breakers, Windsor Grove, and provision of a building and associated hard and soft landscaping in respect of the modernisation of the site for continued use as metal recycling and management facility*. The site is not currently in use for metal recycling. The Appellant and the Local Planning Authority (LPA) (the main parties) had agreed in the statement of common ground (core document 7.4 (CD7.4)) that the proposal should be described as: *Demolition of all existing buildings and structures and the provision of a new building and associated hard and soft landscaping in respect of the use of the site as a metal recycling and management facility*. I have considered the appeal on this basis.
4. A combined environmental statement was submitted in support of the planning application for the appeal proposal and a separate application for residential development at a waste management facility in Shakespeare Road, London¹. A review of the environmental statement was undertaken for the LPA by Avison Young (CD2.8). Following the receipt of further information and clarification, Avison Young advised that the clarifications were helpful in explaining and justifying the approaches taken and were considered reasonable². I am satisfied that the environmental statement meets the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, and I have taken it into account in my consideration of the appeal.

¹ Core documents library, section 2.

² Recorded in the report to the Planning Applications Committee (CD5.4.1), para 9.7.

5. A planning agreement has been submitted, which has been made between the Council, Network Rail, Southwark Metals (the intended operators of the development), the long leaseholders, and the mortgagee (CD5.7). The agreement includes obligations concerning highway works, transport monitoring, a range of financial contributions, the considerate constructors scheme, employment and skills, and carbon offset measures.
6. A core documents library was established for the inquiry, and can be accessed at [Public inquiry for Land Off Windsor Grove | Lambeth Council](#)³. Those documents which were submitted in connection with the inquiry are detailed in a list appended to this report.
7. This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies, details of agreed matters, and the gist of the submissions made at the inquiry and in writing, followed by my conclusions and recommendation. Lists of possible conditions and inquiry documents are appended.

The Site and Surroundings

8. The appeal site lies a short distance to the south-east of West Norwood centre. It is at the eastern end of Windsor Grove which forms a priority junction with Norwood High Street (the B232 and continuing just to the north as the A215). About 250m to the north of the junction, Norwood High Street is crossed by a railway bridge. A warning sign on the bridge specifies a maximum height of 14'9" for vehicles passing underneath.
9. On the north side of Windsor Grove are a Royal Mail Delivery Office and a group of business and light industrial units in the Windsor Centre⁴. The delivery office is situated close to the north-west corner of the appeal site, and has its vehicular access at the end of the road. Most of the units in the Windsor Centre are served from Advance Road, with only one unit having a direct access to Windsor Grove. There is housing at Windsor Close on the south side of Windsor Grove. A row of terrace houses have their rear elevations facing towards Windsor Grove, with a tall wall on their boundary with the footway. A parking area, six lock-up garages and a play area separate these houses from the appeal site. A three storey block of flats has a side elevation to Windsor Grove close to the junction with Norwood High Street, and another three storey block extends towards the appeal site on the south side of Windsor Close.
10. There are parking restrictions on much of Windsor Grove, with limited stay parking bays outside the delivery office and close to the junction with Norwood High Street. Windsor Grove falls gradually from Norwood High Street, and the land rises more steeply from the appeal site towards the nearby railway to the east and again to the rear of housing on Auckland Hill. There are some trees and other vegetation on the land to the north, east and south of the appeal site. Beyond the strip of land to the south are two schools, built at a higher level, and with access from Gypsy Road.

³ From the inquiry webpage, follow the *Observing and taking part in the inquiry* and *core documents Google drive folders* links.

⁴ The location plan ref B91100 rev P02 (CD1.2.17) shows the position of the site in relation to other properties on Windsor Grove and Windsor Close.

11. The site itself is about 0.38ha in size. Its western side is at a similar level to Windsor Grove and Windsor Close, and a bank slopes up to the higher eastern side. There is a small area of hardstanding inside the access, but for the most part the ground is bare earth with some tree cover on the edges. Some construction materials are stored in the north-west corner of the site, where there is also a small portable kiosk.

Planning History

12. The appeal site was referred to in the planning application as West Norwood Car Breakers, and in 1994 a lawful development certificate was granted to West Norwood Car Breakers in respect of land at Windsor Grove as a car dismantling and disposal depot (CD8.1). There is no record of a plan identifying the land to which the certificate relates⁵, but I note that in the statement of common ground, the main parties agree that the lawful use of the appeal site is for vehicle depollution and disposal⁶.

The Proposal

13. Much of the site would be occupied by a large shed, which would accommodate the metal recycling activity. This would be built to the south-east of the access from Windsor Grove, with an office building and sub-station at the north-west end of the site⁷: parking spaces for three heavy goods vehicles (HGVs) would be provided between these buildings. Redevelopment would take place at a similar level to the lower part of Windsor Grove, with a retaining wall constructed along the north-eastern boundary⁸. In addition to planting on the north-west, south-west and south-east sides of the site, it is proposed that vegetation would be provided in the form of a living wall on the south-east elevation of the shed, and that the shed would have a green roof⁹. It is proposed that the facility would operate with a maximum throughput capacity of 25,000 tonnes per annum (tpa). Operating hours are intended to be 08.00-17.00 hours Monday to Friday and 08.00-13.00 on Saturday¹⁰, and a condition is suggested to this effect.
14. Highway works are proposed on Windsor Grove: these involve the relocation of parking bays and the provision of new bays, new waiting restrictions, dropped kerbs and tactile paving at junctions with side roads, and raised carriageway treatment at the junction with Norwood High Street, and are the subject of a planning obligation¹¹. Another obligation would provide for a contribution towards highway works relating to Norwood High Street and Elder Road. These works involve loading restrictions outside 80 Norwood High Street, a right turn ban on the exit from Windsor Grove for HGVs associated with the development, advanced stop lines at the Gipsy Road/ Chapel Road junction, raised side road treatment at the junction with Linton Grove, a zebra crossing outside St Luke's School, and enhanced pedestrian crossing facilities at the junction with the A214.

⁵ See CDs 16.25, 16.25.1 & 16.25.2.

⁶ CD7.4, para 2.2.

⁷ Site plan ref T91100 rev P02 (CD1.2.18).

⁸ Site section S02 on drawing ref T91300 rev P02 (CD1.2.20).

⁹ General arrangement landscape drawing ref 15656-WIE-ZZ-XX-DR-L-74100 rev P02 (CD1.2.13), and site roof plan ref T91102 rev P02 (CD1.2.19).

¹⁰ Planning statement, para 7.5.2 (CD1.3.1).

¹¹ These highway works on Windsor Grove are indicated on the plans in appendix A to Mr Bancroft's proof of evidence (CD15.2.2).

15. I heard that the Appellant, Urban & Provincial is associated with Southwark Metals, which operates a metal recycling and management facility in Lewisham. This site was occupied on an interim basis, following a move from Ruby Triangle in Southwark, and it is intended that Southwark Metals would relocate to the land at Windsor Grove. A planning obligation relating to the redevelopment of Ruby Triangle and requiring a compensatory waste site to be approved by the London Borough of Southwark and the use implemented (CD16.14.2) has been discharged (CD16.14.3).
16. Urban & Provincial own a site at Shakespeare Road in Lambeth, which is described as a waste transfer station. The waste operation on this site is operated by a tenant and not by the Appellant. Planning permission has been granted for redevelopment of the Shakespeare Road site to provide 218 dwellings in three blocks (CD14.17). Condition 4 of the planning permission prevents development commencing until a scheme has been approved that would secure compensatory waste capacity within the Borough with a minimum annual throughput of 21,151tpa. A similar restriction is included as an obligation in a planning agreement relating to this scheme¹². The appeal proposal is linked to this scheme, since it is intended to provide the compensatory waste capacity for the loss of the Shakespeare Road facility¹³. Notwithstanding these requirements, the LPA explained that the existing capacity at Shakespeare Road is 20,151tpa¹⁴.

Planning Policies and Guidance

17. The Development Plan includes the London Plan 2021 and the Lambeth Local Plan 2020-2035. A large number of policies from both plans have been identified by the main parties¹⁵. I refer below to those which are of most relevance to the appeal proposal.

The London Plan 2021

18. Policy SI7 promotes a more circular economy where waste is reduced and the re-use of materials is encouraged (CD11.1.23). Policy SI8 is concerned with waste capacity and net waste self-sufficiency. Measures specified to manage London's waste sustainably include safeguarding existing waste management sites and optimising their capacity (CD11.1.24). Part A of Policy SI9 specifically provides for the safeguarding of existing waste sites which should be retained in waste management use (CD11.1.25).
19. Non-aviation development proposals should avoid significant adverse noise impacts on health and quality of life (Policy D14, CD11.1.7). Healthy streets are promoted by Policy T2: proposals are expected to demonstrate the delivery of improvements which would support the healthy streets indicators and to reduce the dominance of vehicles on the streets (CD11.1.29). Assessing and mitigating transport impacts is the subject of Policy T4 (CD11.1.31). Where appropriate, mitigation, either through the direct provision of highway improvements, amongst other works, or through financial contributions, will be required to address adverse transport impacts, and proposals should not increase road danger.

¹² Schedule 8 in CD14.4.

¹³ Mr Tickle in cross-examination.

¹⁴ CD15.4, paras 5.3-5.5.

¹⁵ CD7.4, paras 4.2 & 4.3.

20. About 28.9% (0.11ha) of the appeal site lies within the Railway Linesides – West Norwood Site of Importance for Nature Conservation (SINC)¹⁶. This area amounts to about 1.27% of the total area of the SINC. Policy G6 requires that such sites should be protected (CD11.1.17). Where harm is unavoidable, and where the benefits clearly outweigh the impacts on biodiversity, a mitigation hierarchy should be applied which, in the first instance, seeks to avoid damaging the significant ecological features of the site. In accordance with Policy G5, major development proposals should contribute to the greening of London by including urban greening as a fundamental element of design; reference is made to measures such as green roofs and green walls (CD11.1.16).

Lambeth Local Plan 2020-2035

21. On the Local Plan Policies Map, the greater part of the appeal site is shown as a designated waste site and part of a key industrial and business area (KIBA), and the balance as part of a SINC¹⁷. Within KIBAs, Policy ED3 stipulates that development will only be permitted for business, industrial, storage and waste management uses, and other compatible commercial uses (CD12.1.4).
22. Part A of Policy EN7 sets out measures to contribute to sustainable waste management in Lambeth, which include safeguarding existing waste transfer and management sites for waste use and encouraging intensification of capacity where appropriate (CD12.1.10). The loss of a waste site for other uses will only be supported where appropriate compensatory provision is provided in appropriate locations elsewhere in the Borough.
23. Policy T1 is concerned with sustainable travel: Part G requires that development proposals should reduce road danger. Requirements for open space and green infrastructure are to be met by, amongst other means, preventing development which would result in the loss, reduction in area or significant harm to the nature conservation or biodiversity value of an open space, including any SINC, unless adequate mitigation or compensatory measures are included (Policy EN1 CD12.1.8). The quality of green infrastructure should be improved, including its biodiversity and nature conservation value.
24. Policy Q2 provides a series of criteria against which proposals should be assessed in relation to amenity (CD12.1.12). Amongst other considerations, the adverse impact of noise should be reduced to an acceptable level.

Other policy and guidance

25. Reference has been made in the representations to the Noise Policy Statement for England (CD13.1) and to British Standards providing guidance on the effect of noise (CDs13.2-13.4). I have also had regard to national planning policy and guidance contained in the National Planning Policy Framework (NPPF), the National Planning Policy for Waste (NPPW, CD10.2), and Planning Practice Guidance (PPG).

¹⁶ CD15.9, paras 3.3.1 & 3.3.2.

¹⁷ Extracts from the Policies Map are at Appendix 16 to Mr Tickle's rebuttal evidence (CD15.10.6). The plan at CD16.21 shows the policies map designations overlain on the proposed site plan.

Agreed Matters

26. The statement of common ground (CD7.4), agreed between the Appellant and the LPA, covers the following matters:

- A description of the site and its surroundings.
- Planning and regulatory history. The lawful use of the site is for vehicle depollution and disposal which is a type of waste use. There are no conditions which limit capacity. The historic maximum throughput was 152tpa, but the site has an environmental permit for a maximum of 25,000tpa.
- The planning application was recommended for approval.
- Planning policies and guidance.
- Matters to be covered by planning obligations.
- The design and size of the industrial building and office would have an acceptable impact on the character and appearance of the site and the surrounding area.
- Internal tracking arrangements for the movement of vehicles and arrangements for parking and storage are acceptable.
- The proposal would generate 156 two-way vehicle movements per day on Windsor Grove, of which 52 are expected to be by HGVs.
- The proposal would provide compensatory capacity for the existing waste use at Shakespeare Road, if required.
- With mitigation measures secured by conditions and planning obligations, there would be negligible residual impacts or harm to the safety of pedestrians or cyclists on Windsor Grove and Norwood High Street.
- The proposal would not have a significant impact on air quality in West Norwood.
- The proposal would not have a significant impact upon internal noise conditions within properties in Windsor Close and West Norwood.

The Case for the Appellant

The material points are:

Introduction

27. The dispute between the Appellant and the LPA comes down to a dispute about the increased number of HGVs on Windsor Grove, and the alleged impact this will have on the character of that road, which is already in mixed industrial and residential use, and on the amenity of pedestrians and cyclists. The appeal scheme complies with a wide suite of policies, and it derives support from many. It was subject to an environmental statement, independently reviewed and approved by the Council and its consultants, and it received a recommendation for approval.

The scope of the issues in relation to the reason for refusal

28. The reason for refusal does not rely on any technical issues. The concerns are instead focused solely on the effect on character and amenity. Those impacts are confined to impacts caused by additional vehicular movements, including HGV movements, but the evidence was concentrated on the latter. The reason for refusal is only concerned with the effect of vehicle movements on Windsor Grove, and it is not concerned with the operations on the appeal site, nor with traffic impacts beyond this road.
29. One sub-section of one policy (Policy SI8E in the London Plan) is said to be breached in the reason for refusal. While its witness maintained that Policy EN7 of the Lambeth Local Plan has also been breached, the LPA was required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 to specify all Development Plan policies that had been breached.

Operational noise

30. There is no technical noise objection from the LPA, but there have been more general noise objections in respect of the appeal scheme's operations from other parties, principally The Community¹⁸. No-one though, including The Community, has taken any objection in respect of fixed plant noise.
31. There is a long history of detailed noise assessment in respect of this proposal. Those assessments in the environmental statement were a worst-case scenario. They were based on 35,000tpa rather than the 25,000tpa now proposed. In respect of operational noise, they were also based on noise levels at the doors being as high as those further back in the shed, whereas by the time the noise reaches the door levels would be lower by 5 to 10dB¹⁹.
32. The Community's noise witness suggested that peak events on site would be audible in residential gardens and at façades. However the test is not one of mere audibility, and in any event the activities would take place in an enclosed building in which the doors would be positioned away from dwellings and schools. That building would incorporate very high acoustic minimum standards, including walls constructed of concrete at the lower level, insulated wall panels at upper levels and an insulated panel to the roof²⁰. A 4m concrete wall would provide additional screening to Windsor Grove, running from the building to the gates²¹. While the doors would be open for ventilation during operational hours, the activities are planned to take place away from the open doors to minimise noise escape²². The operational hours would be confined to normal daytime working hours²³. In addition, a condition is suggested which would set a limit on fixed plant to ensure the rating level of noise emitted is 5dB less than background noise²⁴.
33. Irrespective of the character of operational noise, any impulsive noise would occur within the building and would be unlikely to be perceptible at nearby noise

¹⁸ The Community is an umbrella group representing five local groups, see para 114.

¹⁹ Mr Maclagan's professional view, informed by modelling, given in oral evidence.

²⁰ Chapter 9 of the Environmental Statement, para 9.81 (CD2.02.09).

²¹ CD2.02.09, para. 9.81.

²² CD15.1, para. 4.15 and fig. 4-1.

²³ CD15.1, para. 4.34.

²⁴ CD15.1, paras. 5.3-5.4.

sensitive receptors²⁵. A comparative assessment was carried out to assist in understanding the context for the proposal. Highest noise levels from the development would be outside the open doors²⁶. At the position of sensitive receptors, noise levels in the most likely scenario are predicted to range from 49dB_{LAeq,1-hour} on Windsor Grove to 39dB_{LAeq,1-hour} on Auckland Hill²⁷. The majority of the school buildings and grounds would have a worst-case predicted noise level of 45dB or less²⁸, which would be within the most relevant guideline for schools²⁹. Ambient noise levels are 54 and 56dB_{LAeq,T}, and the only increase in the expected total noise level would be of 1dB on Windsor Grove³⁰, a negligible increase considered against existing daytime noise levels³¹.

34. Although the BS4142 assessment produces increases of 9dB and 7dB at dwellings on Windsor Grove and Windsor Close³², Section 11 of this British Standard explains that the significance of an industrial sound depends on both the margin by which it exceeds the background sound level and the context in which it occurs. The context includes industrial premises, that the receptors surrounding the site are regularly exposed to large individual noise events³³, proposed mitigation measures, the previous use of a car breakers on the site, and the absolute sound level.
35. The predicted sound levels from operational noise in worst-case conditions fall below 55dB_{LAeq,16-hour}³⁴ and so are below the applicable upper World Health Organisation (WHO) guideline for outdoor living areas. WHO guideline criteria are relevant as they are commonly used as a benchmark for residential amenity³⁵. Furthermore, these figures would be about 5dB lower when assessed on the basis of 25,000tpa. At the play area on Windsor Close and the amenity area for the nearest flats, noise levels from on-site operations would for the most part not exceed 55dB³⁶. In the worst-case conditions, the minor adverse effect at the closest receptor from operational noise emissions would not be significant, and in the most likely scenario, the effect on nearby sensitive receptors would be negligible.

The effect on the character of the area and the amenity of pedestrians, cyclists and local residents

36. These issues are very closely interrelated as formulated in the reason for refusal. The impacts derive from the same source and are considered together.

²⁵ Mr Maclagan's proof, paras 4.24-4.28 (CD15.1).

²⁶ Mr Maclagan in oral evidence; see also the noise contour plot at figure 5-1 of his proof (CD15.1).

²⁷ CD15.1, table 4-6. Table 4-6 gives a figure of 48dB, but predicted operational noise at the same point is 49dB in table 4-7.

²⁸ CD15.1, pg 12 fig 4-2.

²⁹ CD15.1 para 5.12.

³⁰ Table 4-6 in Mr Maclagan's proof (CD15.1).

³¹ CD15.1, table 4-6. Table 4-6 gives a figure of 48dB, but predicted operational noise at the same point is 49dB in table 4-7.

³² CD15.1, table 4-7.

³³ CD15.1, para 4.27.

³⁴ CD15.01 Table 4-5 p12.

³⁵ CD15.1, paras 4.31-4.32: the WHO guideline values for outdoor amenity areas are used in BS8233 – Guidance on sound insulation and noise reduction for buildings, para 7.7.3.2 (CD13.4).

³⁶ CD15.1, figure 4-3.

The current character of the area

37. The southern side of Windsor Grove does not have a very clear residential character as suggested by the LPA³⁷. Important contextual factors include designations of the site as a safeguarded waste site and as a part of a KIBA. Only 28.9% of the appeal site is in the designated Railway Lineside – West Norwood SINC, and this amounts to 1.27% of the SINC³⁸. It is also a Locally Significant Industrial Site within the meaning of the London Plan. The Local Plan evidence base concluded that KIBAs should be the primary area of search for additional land for waste management use. The West Norwood KIBA was allocated as a KIBA in the 2015 and 2021 Lambeth Local Plans even though part of it, including the appeal site, is close to both residential development and to two schools. There is a strong likelihood of HGV movements being associated with any industrial use of a KIBA. The Community objected to inclusion of the appeal site in the KIBA, but were not successful: it is expected that their concerns were taken into account by both the Local Plan Inspector and the LPA at this stage, and nonetheless the site was designated.
38. The Waste Evidence Base for the Local Plan identifies that there is potential to intensify or upgrade a few waste sites in Lambeth, including the site at Windsor Grove, which is referred to as operating well under capacity for its size³⁹. Through the Local Plan process, the appeal site has been assessed as suitable for waste use. This assessment will have included consideration of volume and nature of traffic; the evidence base records that the KIBA is suitable for access by large vehicles⁴⁰.
39. The Review of KIBAs, which was also part of the evidence base for the Local Plan, identifies that the West Norwood KIBA is suitable for access by large vehicles, and that KIBAs in Lambeth are appropriate locations to meet identified demand for waste management uses⁴¹. In addition, the LPA's document West Norwood and Tulse Hill: A Manual for Delivery refers to KIBAs as appropriate for new waste management uses⁴². If the appeal site were not to come forward for a waste use another industrial use could be expected to come forward instead, and it is likely that HGVs would be associated with such a use.
40. Windsor Grove itself is not in the KIBA, but it provides the sole access for three of the designated sites there, and 18 industrial premises are accessed via this road. There are no conditions on the delivery office, restricting the hours of operation or the types and sizes of vehicles. Royal Mail has advised that 7.5 tonne lorries arrive at the delivery office during the night, when there will be a lower background noise. Moreover, use of the premises is not personal to Royal Mail, and they could be used by another operator. Vans associated with the Royal Mail are regularly parked on the footway⁴³, and this is part of the current character.

³⁷ The LPA's statement of case, para 5.14 (CD7.3).

³⁸ CD15.09 paras 3.3.1 & 3.3.2, see also the plan showing the extent of the SINC at CD15.10.6 and the site plan overlain with the Policies Map designations (CD16.21).

³⁹ CD12.6, para 5.3.

⁴⁰ CD12.6, pg 141.

⁴¹ CD12.7, pgs 173 & 5.

⁴² CD14.11, para 7.2.1.

⁴³ See photographs in appendix D to Mr Bancroft's proof (CD15.2.2, pgs 9-11).

41. The planning permission for the Windsor Centre contains no conditions which restrict the hours of operation there or the movement or type of vehicles accessing the 16 units⁴⁴. Whilst that 1991 permission did contain a condition which restricted activities to those consistent with industrial processes in class B1, planning permission has subsequently been granted for a change of use for one of the units for to provide a training centre (Class D1) and car repair garage and MOT test centre (Class B2). The LPA's report refers to the policy framework having changed since the restrictive condition of the 1991 permission was imposed and comments that in policy terms there is no presumption for the separation of B1 and B2 uses in KIBAs⁴⁵.
42. The properties at 1-12 Windsor Close back onto Windsor Grove, from which they are separated by a tall wall⁴⁶. The main vehicular and pedestrian access to these properties is via the top part of Windsor Grove into Windsor Close. A three-storey block of flats on the west side of Windsor Close has windows overlooking Norwood High Street, where the traffic levels are higher than on Windsor Grove, and flats to the south are some distance from Windsor Grove.
43. The appeal site itself has a lawful use as a car breakers, and is untidy and of poor quality. It has generated noise complaints⁴⁷, has no planning controls, and benefits from an environmental permit for a maximum throughput of 25,000tpa⁴⁸.
44. During the weekday hours of operation proposed for the site (08.00 – 17.00) a survey for the transport assessment recorded that Windsor Grove was subject to 388 two-way vehicle movements, of which 21 were HGVs (CD16.17)⁴⁹. At present flows associated with the residential uses account for about 5% of all movements on Windsor Grove⁵⁰: it is considered to be a mixed-use street, with a commercial use bias.
45. Pedestrian movement is low, with two-way movements of between 6-38 per hour on Windsor Grove itself, and 27-106 crossing the road at the junction with West Norwood High Street⁵¹. There are about 100 two-way daily movements by cyclists during the intended opening hours⁵². These 100 movements are very largely from the new last-mile grocery delivery business that has recently started to operate from the Windsor Centre, and the cyclists are professional employees who cycle for a living.
46. When pedestrians and cyclists leave Windsor Grove they enter Norwood High Street, where traffic levels are much greater with 2,943 vehicle movements between 08.00 and 17.00⁵³. That includes 122 HGV movements, compared with

⁴⁴ CD15.3.2, appendix ST2.

⁴⁵ CD15.10.4, pg 4.

⁴⁶ CD1.03.02 p7 photo 5.

⁴⁷ The Community's statement of case (CD7.6.1), para 4.1.1.

⁴⁸ Statement of common ground (CD7.4), para 2.2.

⁴⁹ CD16.17, table 1 of amended CD16.3.

⁵⁰ CD16.17, table 1 of amended CD16.3. Total vehicle movements on Windsor Grove are 388; 18 (4.6%) are recorded on Windsor Close.

⁵¹ Tables 3.5 & 3.6 of Mr Bancroft's proof of evidence (CD15.2).

⁵² CD16.17, table 4 of amended CD16.3.

⁵³ CD16.17, tables 1 & 2 of amended CD16.3.

a predicted 73 HGVs movements on Windsor Grove with the appeal scheme in place⁵⁴.

47. The primary sources of noise currently affecting the site are road traffic from Windsor Grove and Norwood High Street, including goods vehicles accessing the delivery office, and rail traffic. The situation was assessed by the Appellant's noise witness as typical of an urban environment exposed to commercial and traffic related noise.

Proposed vehicle movements

48. The appeal scheme would generate 156 two-way vehicle movements over the course of its operating weekday (08.00 – 17.00), with 52 HGVs⁵⁵. The maximum number of HGV two-way movements in the morning from the appeal scheme (09.00 – 10.00 and 11.00 – 12.00) would be 6 (being two other goods vehicles 1⁵⁶ (OGV1) and four OGV2 in both cases), and in the afternoon would be 9 (between 14.00 – 15.00, with three OGV1s and six OGV2s)⁵⁷. The highest increase in overall traffic movements would also be between 14.00 and 15.00 hours when 26 vehicles would travel to and from the site⁵⁸. That development traffic would not coincide with the wider peak in traffic. These are worst-case figures, which have been reviewed and assessed as robust⁵⁹. Windsor Grove is lightly trafficked, with 388 vehicle movements between the hours of 08.00 and 17.00 (43 per hour). With the development in place that figure would increase to 544 vehicle movements (60 per hour)⁶⁰.
49. The traffic generated would predominantly be transit vans, flat bed lorries and skip loaders.⁶¹ Light goods vehicles (LGVs) are already a regular sight on Windsor Grove. A suggested condition would limit the size of vehicles to a maximum length of 10.2m⁶².

General assessment of the issues

50. The Appellant undertook an extremely detailed assessment of the impacts arising from transport. The ultimate conclusion was that none of the residual effects of the development was significant, so there are no significant environmental effects⁶³. This assessment was based on a throughput of 35,000tpa rather than 25,000tpa as now proposed. The overall conclusions of the environmental statement were endorsed by the LPA's consultants, Avison Young⁶⁴, and there was no objection from the Environmental Health Officer⁶⁵. It is accepted that the LPA's report refers to a minor level of residual harm on the pedestrian and cyclist

⁵⁴ CD16.17, tables 1 & 2 of amended CD16.3. Table 1 gives the number of predicted HGV movements as 74, but the consequence of the adjustment reducing the number of HGVs generated by the development by one is that the total number should be reduced by the same amount.

⁵⁵ CD15.2.1, table 4.1. CD3.1 explains how these figures were calculated.

⁵⁶ Definitions of light goods vehicles, OGVs1 and OGVs2 are given in section 8.1 of The COBA 2018 User Manual Part 4, Highways England (in CD16.12).

⁵⁷ Mr Bancroft's Proof Table 4.1.

⁵⁸ Mr Bancroft's Proof Table 4.1 gives the total number of vehicle movements at this time as 25, but the individual categories sum to 26.

⁵⁹ Transport review by Steer, CD4.1.

⁶⁰ CD16.17, table 1.

⁶¹ Taking account of the breakdown of traffic at the existing Southwark Metals site, CD15.2.2, Appendix J.

⁶² CD16.5, condition 26.

⁶³ CD2.2.7, para. 7.179.

⁶⁴ CD2.8.

⁶⁵ CD5.4.1, pg 15.

environment⁶⁶, but there would not be an unacceptable effect upon the amenity of pedestrians or cyclists.

51. The proposal was assessed against the Institute of Environmental Assessment (IEA) guidelines. The methodology agreed by the authors with the LPA was that where there was more than a 100% increase in traffic flows, the impact would be assessed based on the professional judgement of the authors of the environmental statement chapter. A doubling of HGV traffic did not mean it would automatically be significant, because the IEA assessment sets only a tentative threshold⁶⁷. No significant impact was found. The environmental statement chapter concluded that the likely effect on pedestrian amenity, and in respect of fear and intimidation, would be negligible⁶⁸.
52. An assessment of amenity was also undertaken using the Transport for London Healthy Streets Calculator. The proposal would have a negligible impact on the score for Windsor Grove, which would fall by one to 48⁶⁹.
53. The mitigations proposed (above, para 14) are relevant to assessing the effect on character and amenity. Some of the mitigations would improve safety and would therefore benefit the pedestrian environment from an amenity perspective.
54. The purpose of a journey is related to its destination and relevant to the effect on amenity: someone used to travelling to work in an industrial location such as the Windsor Centre would be used to seeing and encountering HGVs. Given that HGVs are more than 120 in number during working day hours on Norwood High Street, which all pedestrians and cyclists accessing Windsor Grove must pass through, this is considered to be highly relevant.

Visibility/ physical presence

55. There would be an increase from 21 to 52 HGVs (a 247% increase), but the percentage increase is driven by a low baseline, and the overall number should be considered too in assessing the effect of the increased presence of HGVs on the few occasions when they would interact with pedestrians and cyclists. Pedestrians and cyclists leaving Windsor Close would probably be on Windsor Grove for approximately 30 seconds before they reach Norwood High Street, and thus the likelihood of encountering an additional HGV would be minimal. The overall daily numbers, therefore, are only of minor significance. Further, the probability of two HGVs meeting would be highly unlikely, being assessed in the Independent Highways Review as once every 100 hours during the peak hour of operation, with a lower probability during other hours⁷⁰.
56. Moreover, there are no restrictions in terms of traffic orders for sizes and weights of vehicles on Windsor Grove, whereas a suggested condition would limit the size and type of vehicles and restrict larger vehicles to times outside peak school hours⁷¹.

⁶⁶ CD5.4.1, para 12.54.

⁶⁷ Chapter 7 of the Environmental Statement, para 7.55 (CD2.2.7), and para 4.39 of the Guidelines for the Environmental Assessment of Road Traffic, IEA (CD14.13).

⁶⁸ CD2.2.7, paras 7.145 & 7.150.

⁶⁹ Mr Bancroft's proof, paras 5.17-5.19 and table 5.2 (CD15.2.1); appendix I to Mr Bancroft's proof (CD15.2.2).

⁷⁰ CD4.1, para. 4.5, pg 20.

⁷¹ CD16.5, condition 26.

Noise – road traffic

57. The LPA's concern is with vehicles on Windsor Grove, but it was accepted that the site could potentially be used for some other industrial use which could generate a range of traffic movements, including HGVs. The tall boundary wall would reduce any noise impacts in both the gardens and the ground floors of the houses on Windsor Close. HGV movements are expected to peak at nine between 14.00 and 15.00 hours, and during that part of the day noise levels within garden areas would generally be below 50dB_{L_{aeq,T}} and would be about 46dB_{L_{aeq,T}} at the closest façade to the site⁷². The first floor rooms are bedrooms and bathrooms with the former not likely to be used during the daytime when the appeal scheme would operate. The environmental statement referred to an increase of between only 2.7dB and 4.9dB at Windsor Grove when considering the extant use (152tpa) as a baseline, and between 2.9dB and 6.2dB for the alternative baseline (non-operational) scenario⁷³.
58. Even in a worst-case scenario, noise levels associated with HGVs would meet all recommended design requirements for residents. Although pedestrians and cyclists would be exposed to individual noise events as HGVs pass them, this would not be unusual, and they would be turning onto Norwood High Street, where they would be exposed to higher noise levels. While noise levels at the pavement side receptor location on Windsor Grove over the hour in which the maximum number of 9 HGVs passed would reach 57dB, the environmental statement shows typical noise levels on Norwood High Street to be in excess of 64.4dB.⁷⁴
59. It is concluded that there would be no unacceptable effects on the amenity of pedestrians and cyclists using Windsor Grove or of residents living adjacent to the road, or, closely related to that, the character of the area.

The effect on highway safety and traffic movement

60. Safety has been considered in detail. Chapter 7 of the environmental statement (CD2.2.7), the Transport Assessment⁷⁵, Transport Assessment Addendum⁷⁶ and Vectos Technical Note (CD3.9) assessed the effects of the appeal scheme on safety. In addition, an independent road safety audit was undertaken to review pedestrian safety levels along Windsor Grove⁷⁷, and an Independent Highways Review was undertaken for the LPA by Steer (CD4.1). The former led to a number of mitigations being proposed, including the introduction of tactile paving along Windsor Grove, and the Independent Highways Review by Steer concluded that any possible effects on pedestrian safety would be mitigated, and that the road network could accommodate the traffic generated⁷⁸. The pedestrian infrastructure is suitable to meet the needs of those who use it regularly, and traffic flows on Windsor Grove are not at a level where severance is an issue for pedestrians⁷⁹.

⁷² CD15.1, table 4-8, figure 4-5 and para 4.38.

⁷³ CD2.2.9, para 9.86 & table 9.25 final two rows, para. 9.120 and table 9.30, final two rows.

⁷⁴ CD2.2.9, table 9.25.

⁷⁵ Annex 1 of appendix 4 to the environmental statement, pgs 3ff (CD2.4.4).

⁷⁶ Annex 1 of appendix 4 to the environmental statement, pgs 220ff (CD2.4.4).

⁷⁷ CD2.4.4 p803ff.

⁷⁸ CD4.1, pages 5, 17 & 18.

⁷⁹ Mr Bancroft's proof (CD15.2.1), paras. 3.35 & 3.38.

61. The layout of the site has the capacity to accommodate sixteen 10.2m HGVs (equivalent to more than 40 transit vans), and in addition there would be three HGV parking spaces: this compares favourably to the busiest period of 14.00-15.00 hours with nine HGV movements and 26 vehicle movements in total⁸⁰. Although a contribution towards the cost of a crash protection beam on the railway bridge across Norwood High Street is included as a planning obligation, this is not considered to be necessary. The tallest vehicles travelling to the site would be 14'3" in height, below the maximum permitted height of 14'9".

The benefits

62. There would be a significant uplift in capacity on a safeguarded waste site, which would contribute to meeting Lambeth's waste capacity need and closing the capacity gap. Leaving aside Shakespeare Road, there would be a net increase in capacity of 24,848tpa⁸¹, and if Shakespeare Road site were redeveloped the net increase would be 4,697tpa⁸². The capacity gap is expected to grow to about 136,632 tonnes by 2036, requiring 2.3ha of land⁸³. The proposal would contribute significantly to the sustainable management of waste in Lambeth.
63. The recycling of metal is beneficial in terms of carbon. An indicative study found that that over 60 years, the proposal would result in a reduction in carbon emissions of 2.79 billionkgCO_{2e}.⁸⁴
64. The lawful use of the site for outdoor car breaking would be replaced by a purpose-built sustainable structure, which would be enclosed to reduce effects on the area from on-site operations.
65. The proposal would offer metal recycling to local residents and businesses.
66. There are areas of dense and scattered scrub, woodland, scattered trees, and tall ruderal vegetation on the site. The condition of the habitats has been assessed as poor, and their distinctiveness between low and medium⁸⁵. Although the distinctiveness of the planting proposed would remain within the low-medium range, habitat condition is assessed as good, and the proposal would include ecological and landscaping measures which would achieve 113% biodiversity net gain⁸⁶, an urban greening factor of 0.484⁸⁷, and contribute to the improvement of the SINC.
67. Fifteen full-time equivalent jobs would be created⁸⁸. The Appellant has committed to making reasonable endeavours to secure 25% of jobs during construction and the first two years of operation for local residents, and a financial contribution would be provided towards vocational training and employment.

⁸⁰ Appendix M to CD15.2.2, pg 52, and table 4.1 in CD15.2.1. The total two-way movements in table 4.1 are given as 25, but the individual categories aggregate to 26.

⁸¹ The proposed 25,000tpa throughput less the previous throughput of 152tpa, see paras 13 & 26.

⁸² 24,848tpa less the capacity of 20,151tpa at Shakespeare Road, see para 16.

⁸³ The table following para 9.65 of the Local Plan (CD12.1.10).

⁸⁴ Technical briefing, pg 7 (CD5.1).

⁸⁵ See references to the extended phase 1 habitat survey, in section 3.1 of the Windsor Grove Biodiversity Impact assessment: Net Gain strategy Technical Note, Appendix ST3 in in CD15.3.2.

⁸⁶ Tables 3 & 5 in the Windsor Grove Biodiversity Impact Assessment: Net Gain Technical Note, in appendix ST3 (CD15.3.2) to Mr Tickle's proof.

⁸⁷ Urban Greening Technical Note (CD1.3.21), table 2.

⁸⁸ Application form, part 18 (CD1.1.3).

68. Proceeding with the appeal proposal would enable delivery of the redevelopment scheme at Shakespeare Road, delivering much-needed market and affordable housing⁸⁹.

Consistency with the Development Plan

69. The scheme is considered to be fully compliant with all relevant policies in the Development Plan. The LPA's witness agreed that there was compliance with 37 of 38 relevant policies in The London Plan, including Policy D14 which requires that significant noise impacts are avoided and that potential impacts are mitigated, and Policy SI9 which seeks to retain safeguarded waste sites in waste management use. The reason for refusal refers to part E of Policy SI8 (CD11.1.24): there is compliance with the criteria concerning implementation of the waste hierarchy and achieving a positive carbon outcome. Given that there would be no adverse effect on character or amenity, there is no breach of the other three criteria.
70. Only Policy ENV7(A)(iv) of the Local Plan is alleged to be breached by the LPA. No breach is alleged with 20 other policies, including Policy ED3 which provides for waste management and other uses in KIBAs, and Policy Q2 on amenity. Insofar as Policy ENV7 is concerned, the proposal draws support from criteria i-iii and v. Criterion iv refers to the intensification of capacity on existing sites where appropriate. As there would be no adverse effect on character, amenity, or highway safety and traffic movement, the appeal site is appropriate for the purpose of part A(iv) of Policy ENV7.
71. Even if it were found that the appeal scheme conflicted with some parts of Policies SI8 or ENV7, it complies with others, and there would still be compliance with the Development Plan as a whole.

Other considerations

The NPPW

72. There is much in the NPPW which supports the appeal proposal. It seeks modern infrastructure, identification of areas for waste management facilities, and encourages recycling. The Local Plan identifies KIBAs as a primary area of search for waste use.

The NPPF

73. The NPPF, read as a whole, strongly supports the grant of planning permission. The presumption in favour of sustainable development, in paragraph 11, applies, as for decision taking this involves approving development proposals that accord with an up-to-date development plan without delay. The appeal scheme would support the economy of the Borough and in particular West Norwood, consistent with paragraph 81. Referring to paragraph 119, it would make effective use of brownfield land, and the environmental and transport effects would not be adverse. Paragraph 120 supports the remediation of degraded and under-utilised land.

⁸⁹ Paras 12.30-12.38 of the LPA's report on the planning application for the Shakespeare Road proposal.

74. in relation to the issues concerning character and amenity, and not just highway safety and traffic movement, paragraph 111 of the NPPF applies such that any unacceptable impacts should only lead to refusal if the residual impacts are severe. The allegation in the reason for refusal concerns additional vehicular movements. Walking and cycling are forms of transport, and the scheme has been refused due to impacts thereon from other forms of transport. Moreover, paragraph 111 should be read with paragraph 112, which says *Within this context, applications for development should: create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character...* This would seem to capture within the context of paragraph 111 both amenity and character. In any event, any such harm is minor, and does not justify dismissal without the test of severity.

Air quality

75. Emissions within the recycling shed would discharge through louvres on the north-west elevation, away from housing and the nearby schools, and the landscaping proposed would benefit air quality⁹⁰. The effect on air quality during construction and operation, including from additional traffic, is assessed as negligible, having been reviewed by independent consultants⁹¹. The landscaping proposed would be likely to benefit local air quality.

The fallback position

76. There is agreement with the LPA that the previous car breaking use on the appeal site could be re-started at around 152tpa without any need for further planning permission⁹². The dispute that arises is in relation to whether there is a fallback for a higher tpa throughput. The Appellant intends to implement a 7,800tpa fallback if the appeal is unsuccessful. Existing hardstanding, mobile vehicle depollution stations and other such equipment along with portacabins would be used to operate a business similar to but more intensive than the previous one. None of this would require planning permission. The LPA's contention that this would involve a material change of use by reason of intensification is considered ambitious. If the 7,800tpa fallback can be relied on, it is an operation that would be subject to no planning conditions, it would generally be more environmentally harmful, and it would deliver none of the benefits of the appeal scheme.

Conclusion

77. The planning balance is very strongly in favour of the proposal. Thus if it is found that there is a breach of the Development Plan, it should nonetheless be concluded that the planning balance weighs in favour of granting planning permission.

⁹⁰ See Mr Tickle's proof (CD15.3.1), paras 4.3.26-4.3.32, and the Air Quality Report sections 7 & 8 (CD1.3.16).

⁹¹ CD3.12, pages 16-21.

⁹² CD14.10.

The Case for the LPA

The material points are:

Introduction

78. It is common ground that the scheme would result in adverse effects. The dispute between the main parties is over the significance of those effects. The evidence demonstrates that the scheme would cause substantial harm to both character and amenity. That substantial harm is not rendered acceptable by other considerations. Whilst Lambeth has a waste capacity gap, it has a strategy for addressing that gap, which was found to be sound by the Local Plan Inspector fewer than nine months ago. If the site came forward for a lower throughput than 25,000tpa, there would be fewer vehicle movements and thus less impact on character and amenity, and no development plan policy would be breached.

The baseline position

79. The southern side of Windsor Grove is residential in character. The rear frontages of Nos. 1 to 12 Windsor Close give directly on to Windsor Grove. The doors that are set into the boundary wall behind Nos. 1 to 12 Windsor Close are residential, and the properties themselves are visible behind the wall. Whilst the northern side of Windsor Grove falls within the West Norwood KIBA, the existing uses on that side are limited to uses that safeguard the amenity of the sensitive residential land use that is nearby. Except for Unit 9, all of the Windsor Centre units remain subject to a condition of the 1991 grant of planning permission which provides that no processes shall be carried on or machinery installed which are not such as could be carried on or installed in any residential area without detriment to its amenity.
80. The change of use granted at Unit 9 was not for a B2 use, but rather for a mixed D1 and B2 use (CD15.10.4). Unit 9 is located at the head of Advance Road (away from Windsor Grove) and does not abut any residential properties⁹³. Insofar as the delivery office is concerned, there is no evidence that it is likely to change hands.
81. Although the appeal site falls within the KIBA, it is located at its south-eastern extremity, is almost entirely surrounded by non-KIBA land, and lies close to sensitive residential land uses. It is common ground that the site has a previous maximum throughput capacity of 152tpa (above, para 26).
82. The existing volume of traffic on Windsor Grove is quite low, with a low proportion of HGV activity (5.4% between 08.00 and 17.00)⁹⁴ that reflects the make-up of the existing uses served by the road. As the road is a cul-de-sac, the volume and mix of its traffic is directly determined by the land uses that it serves. The volume and mix of traffic – and its effect on character and amenity – is consequently more sensitive to changes in development on Windsor Grove than would otherwise be the case.
83. Together with the nature of the existing land uses, these characteristics of the existing traffic on Windsor Grove contribute to the character of the area in and

⁹³ The LPA's report on the application (CD15.10.4), pg 4.

⁹⁴ Table 1, CD16.17.

adjacent to Windsor Grove as being a relatively quiet, peripheral residential area with light industrial activity that is compatible with sensitive residential land uses.

The adverse effects of the scheme

84. The Appellant relies heavily on the assessment work presented in the environmental statement and upon the fact that the statement was reviewed by consultants on behalf of the LPA. The technical specialists who produced topic-specific chapters of the environmental statement were only considering the significance of the specific aspects with which they were concerned. The purpose of the environmental statement was to identify the environmental effects of the scheme, together with their significance. It does not consider the acceptability of the scheme when all of the effects are taken together.

Noise effects

85. Nothing in the environmental statement chapter on noise (CD2.2.9) explains that assessments of moderate to major and major levels of effect from operational road traffic noise⁹⁵ do not apply to carriageway users. Nevertheless, the Appellant's noise witness maintained that the environmental statement had not assessed the effects of the scheme on pedestrian and cyclist users of Windsor Grove. In that case, there is very little evidence on the effects on pedestrian and cyclist users of the Windsor Grove carriageway in terms of noise.

86. The evidence produced as regards carriageway users shows a predicted increase in noise levels (from HGV movements) of up to 6dB. The baseline noise level for Windsor Grove is 54dB⁹⁶. Whilst it was contended that carriageway users on the pavement would experience noise levels of 57dB, the Appellant's noise contour plot shows the pavement in the >55dB to 60dB range⁹⁷. Applying the environmental statement methodology⁹⁸, a 6dB increase is a large magnitude of impact. Although the Appellant's noise witness commented that he would expect a pedestrian to spend minutes at most on Windsor Grove, that overlooks the fact that residents of Windsor Close might well use the route numerous times a day.

87. The significance of operational road traffic noise is however assessed as not significant. Much of the reasoning⁹⁹, such as the screening afforded by the boundary wall, does not apply to carriageway users. It is concluded that noise effects would contribute to a substantially harmful effect on both character and amenity.

Adverse effects on amenity

88. The additional vehicle movements generated by the scheme would increase the total number of movements on Windsor Grove from 467 to 623 movements per day¹⁰⁰, a 33.4% increase. The number of HGV movements would increase from 21 to 73 per day¹⁰¹, a 247% increase. As the Appellant's highways witness noted, consideration of amenity levels for pedestrians and cyclists is a subjective

⁹⁵ C2.2.9, tables 9.25 & 9.30.

⁹⁶ Table 3-3 in Mr Maclagan's proof (CD15.1).

⁹⁷ Figure 4-5 in Mr Maclagan's proof (CD15.1).

⁹⁸ Table 9.6 in chapter 9 (CD2.2.9).

⁹⁹ CD2.2.9, paras 9.88-9.90 & 9.121.

¹⁰⁰ 467 is the number of vehicle movements on Windsor Grove between 07.00 and 19.00 hours, January 2020 traffic survey, Appendix D of the Transport Assessment (CD2.2.4). The increase of 156 is from table 1 of CD16.17.

¹⁰¹ The numbers of HGV movements are from table 1 of CD16.17, both are for the period 08.00-17.00 hours.

matter and there are no established measures against which this can be tested¹⁰². The level of harm that the scheme would cause to amenity is a question of professional judgement.

89. The IEA guidance explains that a tentative threshold for judging the significance of changes in pedestrian amenity would be where the traffic flow (or its lorry component) is halved or doubled¹⁰³. That threshold is far exceeded here. The 52 HGV movements that would result from the scheme between 08.00 and 17.00 hours would be in addition to the 21 HGV movements in the baseline. Thus the probability of a pedestrian or cyclist encountering an HGV whilst on Windsor Grove would increase.
90. The scheme would result in a significantly higher percentage of HGVs on Windsor Grove (being 13.6%, assessed across 08.00 to 17.00 hours) than there is presently on Norwood High Street (4.1% across the same time period)¹⁰⁴.
91. A last-mile delivery business in the Windsor Centre employs professional cyclists, but there was no evidence that professional cyclists view HGVs in a similar way to cars. The concerns expressed by the LPA's witness are not confined to fear and intimidation.
92. The Healthy Streets analysis presented by the Appellant's highways witness involves an element of subjectivity. The Guide to the Healthy Streets Indicators states that it is not design guidance or a tool for objectively measuring the performance of a street against the Healthy Streets Indicators¹⁰⁵. In any event, the analysis shows that the Healthy Streets score would be lower were the scheme to come forward (above, para 52).
93. The increase in vehicle movements would have a harmful effect on the attractiveness and desirability of using Windsor Grove. Vehicles have a physical presence on the highway and the increase in vehicle numbers, particularly in HGVs, would make Windsor Grove less attractive and welcoming for pedestrians and cyclists. Furthermore, the uplift in overall vehicle movements, would be particularly noticeable to the residents of Windsor Close, as their sole access to Norwood High Street and beyond is via Windsor Grove.

Adverse effects on character

94. A greater number of cars, light goods vehicles (LGVs)¹⁰⁶ and HGVs would be seen by residents of Windsor Close and its visitors: the frequent sight of LGVs and HGVs is not normally expected in a residential area, and would undermine its character. The increase in traffic would result in an increase in noise which is considered to be significant. Moreover mitigating factors only deal with the quantitative aspect of noise, and not its nature. The noise associated with the substantial increase in HGVs would be particularly strong, given that the vehicles themselves are generally louder than lighter vehicles, and that HGVs may carry scrap metal in open top containers. There is nothing of substance within the

¹⁰² Mr Bancroft's proof (CD15.2.1), para 3.45.

¹⁰³ CD14.13, para 4.39.

¹⁰⁴ Tables 1 & 2, CD16.17.

¹⁰⁵ CD14.20, pg 5.

¹⁰⁶ LGVs are defined in The COBA 2018 User Manual, part 4, para 8.1 (in CD16.12) as goods vehicles up to 3.5 tonnes gross vehicle weight.

Appellant's evidence to rebut the Council's case that the scheme would cause substantial harm to the character of the area in and around Windsor Grove.

Conclusion on adverse effects

95. The comparisons drawn by the Appellant between Windsor Grove and Norwood High Street are not apposite. The baseline position for the two locations is different, with Norwood High Street experiencing both higher noise levels and a heavier traffic flow than Windsor Grove. In particular, the character of Norwood High Street is different to that of Windsor Grove. The acceptability of the scheme falls to be judged against the Windsor Grove baseline, not that of Norwood High Street.

Performance against the Development Plan

96. Policy SI8(E)(4) of the London Plan requires proposals to increase the capacity of existing waste sites to be evaluated against criteria including the impact on amenity in surrounding areas. The Appellant's planning witness accepted that this part of the policy is not focused on on-site amenity impacts. Amenity is an important consideration in the application of Policy SI8, and where the impacts on character and/or amenity are unacceptable, that development would not optimise the capacity of the site for the purposes of Policy SI8(A)(3).

97. Notwithstanding the Appellant's complaint that Policy EN7 was not referred to in the reason for refusal, it is relevant to the issue concerning the sustainable management of waste in Lambeth. As the scheme would have substantial adverse effects on both character and amenity it would conflict with part A(iv) of the policy.

98. The LPA's case is that there is partial non-compliance with two Development Plan policies. The aspects of those policies that are breached are of sufficient importance to justify a conclusion of overall non-compliance with the Development Plan.

Material considerations

The NPPF

99. The Scheme conflicts with paragraphs 8(a), 9, 119 and 124(d) of the NPPF. Insofar as paragraph 111 is concerned, the LPA is not contending that it should be refused planning permission on highways grounds.

The NPPW

100. The scheme breaches (j) and (l) of the locational criteria that are set out in appendix B to the NPPW.

PPG

101. The waste chapter of PPG advises that it should not be assumed that, because a particular area has hosted waste disposal facilities, it is appropriate to add to these or extend their life¹⁰⁷. It is important to consider the cumulative effect of previous waste disposal facilities on a community's wellbeing. Impacts on

¹⁰⁷ CD10.4, para 28-047.

environmental quality, social cohesion and inclusion and economic potential may all be relevant. The Appellant's planning witness acknowledged that character impacts and amenity impacts were impacts on environmental quality.

The benefits of the scheme

102. The scheme would result in a net increase in capacity (within the Borough) of 4,697tpa, as it was confirmed that it would be used to provide the requisite compensatory waste capacity to enable the Shakespeare Road redevelopment to come forward. That is significant to a lesser degree than would be a net increase of 24,848 tpa, and should be accorded – at most – moderate weight in the overall planning balance.
103. The Local Plan sets out a strategy through which to address the capacity gap in waste management facilities, which was found to be sound by the Local Plan Inspector fewer than nine months ago. It explains that the waste evidence base (CD12.6) demonstrates that enough land can come forward during the plan period to provide sufficient opportunities to meet this need¹⁰⁸. The Inspector explains that the main modifications then proposed identified sufficient capacity and land to meet Lambeth's identified waste needs¹⁰⁹.
104. The waste evidence base assesses that 7.6ha (8ha including proposed new KIBAs) of land could come forward over the plan period, which would provide sufficient opportunity to meet the 2.2ha of land required to meet Lambeth's waste needs by 2036¹¹⁰. Whilst the LPA's strategy for meeting the capacity gap includes the intensification of existing waste sites, that is only encouraged where appropriate. The assertion by the Appellant's highways witness that the evidence base was unequivocal in its conclusion that the site is the most appropriate location for waste management was unsubstantiated, and was withdrawn¹¹¹.
105. Nothing in the Development Plan or the waste evidence base (CD12.6) requires 25,000tpa of capacity to be brought forward on the site, nor does anything in either the Development Plan or the waste evidence base indicate that that level of throughput is appropriate for the site. Whilst table B.1 of the evidence base refers to an estimated throughput per hectare of 60,000 tonnes for recycling and reprocessors / treatment / collection and handling facilities, the Appellant's planning witness acknowledged that this figure was a rule of thumb, and that for all three types of facility, table B.1 identified vehicle movements as a potential issue and smaller-scale as a potential mitigation measure.
106. The LPA acknowledges that use of the scheme as compensatory waste capacity would enable the Shakespeare Road redevelopment to come forward and that this is a benefit.
107. The LPA does not dispute that the scheme would provide 113% biodiversity net gain. However, part of the site is designated as a SINC, and the scheme would largely meet (rather than exceed) policy expectations.
108. Job creation should attract negligible weight in the overall planning balance: the 15 jobs that would result from the scheme are not a significant consideration.

¹⁰⁸ The supporting text to Policy EN7 (CD12.1.10), para 9.67.

¹⁰⁹ Lambeth Local Plan Inspector's Report (CD12.8).

¹¹⁰ CD 12.6, para 5.17. The Local Plan refers to a slightly higher figure of 2.3ha.

¹¹¹ Mr Bancroft in cross-examination, referring to para 2.8(i) of his proof.

109. The scheme would meet – rather than exceed – policy requirements in relation to carbon, and carbon performance should attract, at most, negligible weight as a benefit in the overall planning balance.
110. It is not accepted that the scheme would reduce environmental effects on the wider area. A greater throughput is proposed, and vehicle movements would cause substantial harm to character and amenity.

The fall-back argument

111. The Appellant's planning witness conceded that an express grant of planning permission would be required for the repair and extension of the existing concrete slab, which is shown in the drawing of the fall-back scheme¹¹². Whilst he claimed that the modular draining platforms would not have to be located on hardstanding, there is nothing before the inquiry to support that assertion, and no evidence that Southwark Metals would bring forward the fall-back scheme if it could not repair and extend the hardstanding. Moreover the LPA is of the view that an increase in throughput to 7,800tpa would also require an express grant of planning permission because it would be a material change of use through intensification.

Whether the adverse effects are justified

112. There is no policy requirement for a throughput of 25,000tpa to come forward on the site, and a lower throughput would result in fewer vehicle movements which would have a lower impact on both character and amenity. Such a scheme would comply with the Development Plan. Consequently there is no justification for the harm that the scheme would cause.

Conclusions

113. Overall, the scheme does not accord with the Development Plan, and material considerations do not indicate that planning permission should nevertheless be granted. The planning benefits are insufficient to outweigh the substantial adverse effects, nor do they succeed in outweighing the conflict with the Development Plan.

The cases for interested parties

114. The material points of the cases for those interested parties who appeared at the inquiry follow.

The Community

115. The Community is an umbrella group representing: Norwood Forum, Norwood Action Group, Norwood Planning Assembly, Station to Station, and # Scrap the Yard. No objection is raised in respect of plant noise which should be able to be controlled by condition¹¹³. However, there is concern about operational noise which would be generated by the proposal. The impulsive nature of noise is likely to be heard against the background levels. The background noise level at houses in Windsor Grove is 43dB_{La90}, and the BS4142 assessment indicates an

¹¹² The plan is included in appendix ST5 to Mr Tickle's proof (CD15.3.2).

¹¹³ The oral evidence of Mr Gillieron at the inquiry.

increase of 9-14dB which would have a significant adverse effect¹¹⁴. Noise levels of 55-60dB_{L_{Aeq,T}} from HGVs are predicted in the gardens of the houses backing onto Windsor Grove¹¹⁵, whereas the upper noise limit in BS8233 for external amenity space is 55dB _{L_{Aeq,T}}¹¹⁶, the background noise level is 43dB_{LA90..}, and the average ambient noise level is 55dB _{L_{Aeq,T}}. Taking into account the character of the noise from HGVs, conditions in the gardens would be unacceptable¹¹⁷.

116. Much has been made about increasing waste capacity and self-sufficiency. The Shakespeare Road site could continue to play its part rather than exacerbate the shortfall, and matters relating to that site should play no part in the appeal. With Lambeth needing more waste capacity, the policy of intensification should have applied to Shakespeare Road, not solely to Windsor Grove.
117. Windsor Grove would be used for the relocation of Southwark Metals' Trundleys Road business, albeit with a 10,000tpa shortfall. But Trundleys Road is currently the compensatory capacity for the preceding Ruby Triangle location. That would mean that Windsor Grove would have a very large shortfall compared to the capacity at Ruby Triangle and Shakespeare Road.
118. On a visit to Ruby Triangle, it was understood that most of the scrap metal comes from the large redevelopment sites in the City and to the east. It is considered that much of Southwark Metals' throughput is construction, demolition and excavation waste, and not apportioned waste.
119. Benefits would be minimal and would relate to highway works. On the other hand, as less metal would be recycled than at Trundleys Road or Ruby Triangle there would be no benefit there, and the suggested carbon benefits could not be realised. As the proposal involves the transfer of an existing business, there would be no employment gain. Environmental disbenefits would occur due to the extra mileage by vehicles from the scrap sources, which are likely to be in Central London given the concentration of major redevelopments there.
120. Insofar as HGV routing is concerned there is nothing to deter traffic from the north passing through the town centre. Although HGVs leaving Windsor Grove would be required to turn left, they could then turn right and travel north through the town centre.
121. There is concern about the number of HGV movements. Because of the limit on the size of HGVs, it is suggested that there should be an uplift in numbers of 13%, with a total of 106 daily movements. Noise from the larger HGVs would have a noticeable effect internally and in the gardens of nearby homes. Operational noise is indicated at 55-60dB in the playground on Windsor Close¹¹⁸, which would be excessive, and there is uncertainty about noise from the ventilation fans. There is also concern about the effect of the proposal on air quality.

¹¹⁴ CD15.7.2, comment on table 4.7.

¹¹⁵ CD15.7.1, section 2.

¹¹⁶ CD13.4, para 7.7.3.2.

¹¹⁷ CD15.7.1, section 2.

¹¹⁸ Figures 4-3 & 4-2 of Mr Maclagan's proof (CD15.1).

122. There were some noise complaints relating to the former car breaking operation, but due to the low level of activity problems of noise were not continuous.
123. It is suggested that a fall-back argument should only relate to that part of the site which has a lawful use for car breaking, which is considered to be less than 0.1ha¹¹⁹. There is now only one small area of hardstanding which would need to be increased for any future car breaking activity.
124. The Community considers that a much smaller waste metal transfer station with a throughput of up to 10,000tpa, operating between 10.00 and 15.00 hours would potentially be acceptable.
125. There are reservations about the extent of the site shown as a SINC. The appeal site includes land which was not used by West Norwood Car Breakers, but had heavy tree and shrub cover, and merits protection as part of the SINC. The compensatory provisions for the area designated as a SINC are not considered to be adequate, and a more extensive landscape ecological management plan is required to achieve biodiversity net gain.

Ms Hayes MP

126. There are houses close to Windsor Grove. Existing traffic, with occasional HGVs to the delivery office, causes concern for pedestrians. The road is unsuitable for the increased number of vehicles, including many HGVs, and increased danger would occur for pedestrians and cyclists. HGVs passing close to homes would lead to disturbance from noise and vibration. There is no capacity on Windsor Grove for HGVs to wait without causing disruption, and there is also concern about the effect on air quality. The site is at the edge of the KIBA: it is a town centre location, with housing and schools nearby. The delivery office is an important facility, and its future should not be threatened due to difficulties in gaining access. Windsor Grove is an inappropriate location for a large metal recycling facility, and there is much opposition to the proposal within the community.

Borough Councillors

127. Councillor Cowell was concerned about the number of vehicle movements and the impact this would have on the highway network, including Norwood Road, Croxted Road and Lancaster Avenue. The town centre near St Luke's Church had been improved, and the additional traffic would pose a risk to pedestrians here. It would also pose a risk to cyclists.
128. Councillor Bennett referred to the proximity of the site to housing, a primary school and a pupil referral unit. The development would cause disruption and result in a permanent change in the character of the area: there would be a breach of Policy Q2 of the Local Plan. Nearby dwellings are social housing, and are more likely to be occupied by persons in poor health and with children: the impact on people with protected characteristics should be considered.
129. Councillor Meldrum also objects to the proposal, which she considered would provide a greater than proportionate share of the waste capacity required for

¹¹⁹ CD15.6, pg 4.

London. Noise at the existing Trundleys Yard site is loud, and the appeal site is close to housing.

130. Councillor Pickard accepted that the KIBA gave rise to freight traffic, but the amount which would be generated by the proposal would be unacceptable. In view of the nearby housing this was not an appropriate location for the development, and there is a play area close to the site.

Norwood Forum

131. There has been much investment in West Norwood during the past decade, including improvements to the main shopping area, and there is a strong sense of place and community. The benefits of this investment would be threatened by the relocation of a large-scale metal recycling facility to a small cul-de-sac. The proposal would adversely affect the wellbeing of residents: children would be unable to enjoy the playground, the elderly would feel locked in by the increased traffic, and people would be denied the enjoyment of their gardens. The additional traffic would cause conflict and congestion on Windsor Grove and Norwood High Street, with safety concerns particularly for pedestrians and cyclists. The proposal would not provide benefits which would balance its detrimental impact.

Local resident – Mr Bernstein

132. The entrance area at Trundleys Road has been observed to be blocked for short periods of time: such a situation at the appeal site would have an adverse effect on the delivery office at Windsor Grove. Activity on the Trundleys Road site was noisy. Whilst changes are proposed to the layout of Windsor Grove, the increase in vehicles would lead to congestion and safety concerns. Vans, LGVs and HGVs are involved in a disproportionate number of accidents. Restrictions on Windsor Grove are not expected to prevent parking leading to problems of movement. Manoeuvring problems involving large vehicles would be exacerbated. There should be a minimum time gap between HGVs visiting the site. The increased use of local roads by vans, LGVs and HGVs would cause danger and reduce the attractiveness of the area as a place to live and work. Traffic counts indicate that Elder Road would carry more HGV traffic than Knights Hill¹²⁰. A right turn ban on HGVs exiting Windsor Grove would add to their number on Elder Road, and the cumulative effect of the proposal would be that Elder Road becomes the busiest route for HGV traffic to the south of West Norwood. Knights Hill is part of the strategic road network, but has a 20mph speed limit, and would be a more suitable route for traffic travelling to and from the site than the Elder Road route, which has a 30mph speed limit, and would take traffic past schools, a park and a medical centre.
133. In the Healthy Streets assessment, Windsor Grove received an unhealthy score for cycling in respect of the existing and proposed layout. If parking opportunities were removed on Windsor Grove, that would cause harm to local traders. There should be a limit to operational noise from the site. Some daily traffic movements may be higher than the average trip values, and there is no measure to cap the number of trips.

¹²⁰ Mr Bernstein's written representation in response to the appeal (V3), paras 5, 6, 54.

Written Representations

134. The material points of the cases for those interested parties who submitted written representations follow.

Network Rail (CD16.22)

135. Network Rail is concerned about the increased risk of a bridge strike at Norwood High street railway bridge, which is about 250m to the north of the junction with Windsor Grove (above, para 8). Whilst HGV drivers would be encouraged to take the route within a delivery and servicing management plan, there would be difficulties in enforcing such a measure. The increase in HGV trips would increase the risk of a bridge strike, and a contribution of up to a maximum of £250,000 is requested by means of a planning obligation to provide a crash protection beam on the bridge.

Royal Mail Group (CD6.24)

136. The delivery office is accessed by 7.5 tonne lorries and standard vans. The peak period for arrivals and departures is 08.00-09.30 hours. The 7.5 tonne lorries arrive at 22.00, 04.30, 06.30, 10.30 and 13.00, and sometimes at 08.00. Windsor Grove is narrow and is already congested. Vehicles waiting at the gate to the appeal site would block access to the delivery office. Swept path analysis confirms the constraints on Windsor Grove¹²¹, which is only suitable for one vehicle to pass along. Any queuing would cause significant difficulties for Royal Mail. The proposed development would have a significant impact on access to the delivery office, and risk disruption to Royal Mail's operation. Particular concern is expressed about the ease of access for 7.5 tonne lorries and the situation at the peak period. If short stay parking bays are blocked by vehicles waiting to enter the appeal site, there would be a detrimental impact on customers to the delivery office. In addition, detailed comments on possible planning obligations and conditions were submitted.

The Windsor Centre Business Community

137. The proposal would worsen problems of congestion at the junction of Windsor Grove and Norwood High Street and along the latter road. There would be a detrimental impact for users of these roads and Windsor Close residents. Noise and air pollution would increase, which, with increased congestion, would negatively alter the character of the area.

Other representations

138. In addition, about 450 representations were submitted from the local community in response to the appeal notification. Objections to the proposal refer to the effect of additional vehicles on the character of the area and the amenity of pedestrians, cyclist and residents, the unsuitability of local roads, reduced highway safety, proximity to housing and schools, and air quality.

139. Previously about 2,500 objections were made to the planning application, together with a petition with about 5,300 names¹²²: the objections included similar concerns to the written representations put forward at appeal stage.

¹²¹ Appendix J, CD3.9.

¹²² The objections are summarised in the table at para 7.13 of the committee report (CD5.4.1).

Conditions

140. A schedule of possible conditions (CD16.5), agreed by the main parties, covers the following matters: the plans for determination, contamination, air quality, construction activities, drainage, flood risk, measures to achieve sustainable development, landscaping and trees, travel and transport, noise, operating hours, use, security, and lighting.

Conclusions

References to earlier paragraphs in this report are in square brackets [].

Main considerations

141. Having regard to the representations submitted, I have identified the following main considerations in this case:
- (i) The effect of the proposed development on the character of the area, having regard to vehicle movements.
 - (ii) The effect of the proposed development on the amenity of pedestrians, cyclists and local residents.
 - (iii) The effect of the proposed development on highway safety and traffic movement.
 - (iv) Whether the proposed development would contribute to the sustainable management of waste in Lambeth.
 - (v) Whether the proposed development would be consistent with the Development Plan.
 - (vi) The effect of other considerations on the overall planning balance.

The character of the area

142. The greater part of the appeal site is within a KIBA [21], but the area around the site includes a variety of uses. On the north side of Windsor Grove, and also within West Norwood KIBA, are several industrial and business premises. In contrast, to the south of the road are the dwellings of Windsor Close [9]. Although the houses face towards Windsor Close, the domestic gates in the rear boundary wall on Windsor Grove point to this residential presence, and flats and houses are evident at the junction of Windsor Grove with Windsor Close. To the east of the site, in an elevated position beyond the railway, is housing on Auckland Hill, and there are two schools nearby to the south of the site [10]. Windsor Grove is at the interface between industrial and residential uses, and neither use predominates. The appeal site is currently vacant, but the proposal is not of such a scale that it would materially alter the composition of this part of West Norwood as a mixed-use area.

143. Windsor Grove is a cul-de-sac, and only carries traffic serving the business premises on the north side of the road and the housing on Windsor Close, and vehicles making use of the limited on-street parking opportunities available. During the hours between 08.00 and 17.00, the traffic level of 388 movements is much lower than on the busy Norwood High Street where 2,943 vehicle movements were recorded [44, 46]. A relatively small number of vehicle movements on Windsor Grove (18) were recorded as travelling into Windsor Close. I anticipate that most vehicles travelling beyond the junction with Windsor Close (which is close to Norwood High Street and the wider highway network) are associated with the industrial and business uses located there and on Advance Road at the Windsor Centre. However only 21 (5.4%) of all vehicles using Windsor Grove are HGVs [44].

144. The site is not in a quiet location. Traffic noise from the nearby roads, including the busy Norwood High Street is evident, as is noise from trains using the line to the east of the site. The only noise survey measurements were provided on behalf of the Appellant. Ambient noise levels towards the eastern ends of Windsor Grove and Windsor Close are recorded as 54dB_{LAeq,T} and 56dB_{LAeq,T} respectively [33].
145. The establishment of a recycling centre on the appeal site would result in an increase in traffic movement on Windsor Grove. It is common ground between the main parties that there would be 156 daily traffic movements to and from the site, of which 52 would be made by HGVs [26]. That would amount to a 40% increase above the existing number of vehicle movements and a 247% increase in HGV traffic. These percentages are large, but they do not fully represent the change in traffic conditions which would occur. At only 43 per hour (between 08.00 and 17.00), the actual number of vehicle movements on Windsor Grove is not high for an urban road providing access to several industrial and business premises and a small housing estate. That would remain the case with the development in place, with an average of 60 movements per hour during the intended operating hours of the recycling centre [48].
146. Of more significance than percentage increases from a low base is the predicted distribution of traffic during the working day. During the busiest hour of 14.00-15.00, an additional 26 vehicle movements, of which 9 would be by HGVs, would be generated by the development [48]. The LPA argued that the frequent sight of LGVs and HGVs would not normally be expected in a residential area [94]. However the site is not in a residential area, where the regular movement of commercial traffic may appear intrusive, but an area of mixed uses. Windsor Grove, in particular, which is the focus of the reference in the reason for refusal relating to character, abuts industrial uses and housing, and commercial vehicles are likely to already be a significant component of traffic movement there. The level of increase in itself would not materially alter the nature of Windsor Grove or the area around the appeal site.
147. I have also considered the effect of noise on character. Predicted HGV noise levels on Windsor Grove would exceed 55dB_{LAeq,T} [85], based on use of the road by nine HGVs, which is the maximum number expected in any hour. Although the Appellant's noise witness suggested that noise levels on the footway would be about 57dB, his noise contour plot indicates that they could reach 60dB at the side of the carriageway [86]. The ambient noise level is 54dB_{LAeq,T} [86], and I note that the methodology used in the environmental statement indicates that an increase of more than 5dB would equate to a large magnitude of impact. The qualitative aspect of the noise is also relevant. Vehicles travelling to the site would include flat-bed lorries and skip loaders [49]: metal would not be fully enclosed, and clattering sounds are likely to be a feature of the soundscape. That said, Windsor Grove is not a tranquil location. Moreover the noise from vehicles is transient, and outside the peak hour for HGVs, I would expect the level to be less prominent. I do not consider that the noise from the additional vehicular movements would materially alter the character of Windsor Grove.
148. At the site itself, noise would be generated by fixed plant and building services and operational activities. The LPA has raised no objection in respect of either source, and I note that The Community acknowledges that plant noise should be capable of control by means of a condition [115]. A suggested condition would

require the rating level of noise from plant to be 5dB less than background noise [32], and I am satisfied that with that safeguard plant noise would not be an intrusive feature in the locality.

149. Operational noise has been the subject of comparative and BS4142 assessments by the Appellant. No such assessments of noise from other parties are before me. BS4142 is concerned with the likely effects of sound on people in relation to dwellings, and I have considered this matter under the second main consideration below (para 154). The comparative noise assessment indicates that the ambient noise level on Windsor Grove would increase by 1dB [33]. All lifting and dropping of scrap metal would take place within the shed. The large doors would remain open during working hours, but these are in the north-west elevation and would not face towards Windsor Grove or nearby housing [32]. Unsurprisingly, high noise levels would occur in a localised area close to this end of the shed [33], but these would dissipate quickly, and minimal change is expected in the ambient noise level. I anticipate that the percussive characteristics of sounds would be lessened due to containment by the building. In the circumstances, I consider that the operational noise from the appeal proposal would not detract from the character of the area.
150. I conclude that the proposed development would not materially alter the character of Windsor Grove, nor of the surrounding area more generally.

The amenity of pedestrians, cyclists and local residents

Pedestrians and cyclists

151. Windsor Grove is not used by large numbers of pedestrians and cyclists [45], which limits the extent of interactions with other road users. The Appellant has assessed the road using the Heathy Streets indicators referred to in Policy T2 of The London Plan [19]. There is little change between the existing and with development scenarios, but the overall score would nevertheless fall from 49 to 48 [52], which indicates a deterioration, albeit slight, in the road's effectiveness in encouraging people to walk and cycle more. That change reflects the increase in the proportion of HGVs from 5.4% to 13.6%. In addition, indicators concerning the width available for cycling score zero, although I note that this represents no change from the present situation. The passage of HGVs close to cyclists may not only detract from the pleasantness of their journey, but may also lead to perceptions of vulnerability.
152. Noise experienced on Windsor Grove is predicted as >55dB – 60dB, during the period with most HGVs from the appeal proposal. That would potentially result in a large increase in noise level of 6dB [86], which would make cycling or walking along Windsor Grove a less pleasant experience.
153. I am in no doubt that the increase in traffic on Windsor Grove would detract from the experience of pedestrians and cyclists. However, in view of the relatively low levels of movement by these road users and by vehicles travelling to and from the site, particularly HGVs, the frequency of interaction between these road users would not be a frequent occurrence. I am also mindful that, in most cases, pedestrians and cyclists would be using Windsor Grove as part of longer journeys involving Norwood High Street, which has higher traffic levels, including HGVs [46]. Moreover, given that Windsor Close provides the main access to the dwellings there after only a short distance along Windsor Grove, it

is likely that a significant number of journeys made by pedestrians and cyclists are associated with the business premises. Whilst that does not indicate that considerations of amenity are unimportant, such journeys are likely to be somewhat less sensitive than those made for the purpose of leisure or personal enjoyment. Taking these factors into account, I consider that the LPA's report on the planning application correctly identified that the development would cause a minor level of harm to the environment for pedestrians and cyclists [50], but that this would not amount to an unacceptable effect.

Local residents

154. It is common ground between the Appellant and the LPA that the proposed development would not have a significant impact on noise conditions within nearby dwellings [26], however the noise evidence produced on behalf of The Community expressed concern about the effect of operational noise at nearby dwellings [115]. The BS4142 assessment undertaken for the Appellant predicts that the rating level would involve increases in noise of 9dB and 7dB above background levels at the houses and flats on Windsor Close respectively [34]. BS 4142 explains that a difference of around +10dB is likely to be an indication of a significant adverse impact and that a difference of around +5dB of an adverse impact. Importantly, in both cases, interpretation of the difference should take account of context [34]. Windsor Grove and Windsor Close are within an area which contains existing industrial and business uses, with receptors exposed to loud individual noise events. Moreover, at $49\text{dB}_{\text{LAeq},1\text{-hour}}$, the noise level predicted at the nearest dwellings would be below the guideline value of 50-55dB in BS8233 for external living areas [35]. The play area on Windsor Close and the amenity area for the nearest flats both abut the site boundary: a relatively small part of the play area is predicted to experience noise levels from on-site operations of over 55dB [35], but otherwise the modelling indicates that noise would not exceed that threshold. Taking all these circumstances into account, I do not consider that operational noise from the recycling operation on the appeal site would materially harm the living conditions of nearby residents within their dwellings or their outdoor amenity space.

155. I turn now to consider the effect of vehicle movements on the living conditions of local residents. The Appellant's noise witness provided assessments based on the original predicted number of vehicle movements and the revised lower figures. The latter are consistent with the agreement on traffic generation in the statement of common ground [26], and I consider that they are the appropriate point of reference in this appeal. The dwellings closest to Windsor Grove are the terrace houses on Windsor Close. At the busiest time of the day for HGV movements to and from the appeal site, it is expected that noise levels within the rear gardens of the terrace houses would not exceed $50\text{dB}_{\text{LAeq},T}$, other than in extremely small areas adjacent to the rear boundary wall [57]. At the rear elevation and the side of No 12 Windsor Grove, noise levels are not expected to exceed $45\text{dB}_{\text{LAeq},T}$. As with operational noise, these levels do not exceed the guideline value of 50-55dB in BS8233 for external living areas. The Community drew attention to a higher noise level of 55-60 $\text{dB}_{\text{LAeq},T}$ in the gardens of the houses [115], but this refers to modelling based on the previously predicted greater number of HGVs, and in any event relates to a small area of the gardens close to the road. I have also considered the character of the noise which is likely to include the clattering of metal objects in open skips. The greatest hourly number of vehicles is predicted as 26, and not all will transport unenclosed loads.

Bearing in mind also that the vehicles will take little time to pass the nearby dwellings, and the existing use of Windsor Grove by commercial vehicles travelling to and from business premises in the KIBA, I do not consider that the nature of the noise arising from traffic movements would have an unacceptable impact on the living conditions of local residents, and in this respect the proposal would comply with part (v) of Policy Q2 of the Local Plan.

156. I acknowledge that, as the LPA argued, the increase in vehicular movement may well be apparent to local residents [93]. It does not follow that there would be an adverse effect on their amenity. At Nos 1-12 Windsor Close, the high garden walls would provide substantial screening of garden areas and the ground floor rooms which are most likely to be used during the daytime hours of operation of the appeal site. The main elevations of other dwellings are further away from Windsor Grove. In any event, in an area of mixed uses such as this, the predicted increase in commercial vehicles would not be so great as to be visually intrusive from the dwellings in the locality, and would not be contrary to part (i) of Policy Q2 of the Local Plan.
157. I conclude that the proposed development would not adversely affect the living conditions of local residents, and that accordingly it would not conflict with Policy Q2 of the Local Plan.

Highway safety and traffic movement

158. Although no highway reason for refusal was advanced by the LPA, considerable concern about the effect of the proposal on highway safety and traffic movement was expressed by other parties, including members of the local community and their representatives [120, 126, 127, 130-132, 135-139].
159. Windsor Grove is a short road, the effective width of which is restricted in places by on-street parking [10]. The repositioning of parking bays close to the junction with Norwood High Street further to the east would facilitate the manoeuvring of larger vehicles into and out of Windsor Grove, and setting the bay outside the delivery office into the footway there would also make more carriageway space available for the passage of vehicles [14]. The footway on this part of the road is relatively wide, and the reduced width of 1.8m would be consistent with that further to the west, and would not compromise the safe movement of pedestrians.
160. Nevertheless, the swept path analysis shows that there are places along Windsor Grove where it would be difficult for larger vehicle travelling in opposite directions to pass. That would not be a frequent occurrence however: the Independent Highways Review calculated that it could be expected to occur about once every 100 working hours [55], and no alternative estimate is before me. Moreover, the road is short and straight, with intervisibility available past those sections where the width would be constrained. That should avoid the need for reversing manoeuvres, which could otherwise increase the risk of conflict with other road users, and the limited waiting times would not materially interfere with traffic movement.
161. A specific concern has been raised by Royal Mail in respect of the potential obstruction of the access to the delivery office, which is close to that to the appeal site [9]. Although the site would be gated, a suggested condition would require the gates to remain open during the operational hours of 08.00-17.00,

and there would be capacity within the site to accommodate the number of vehicles expected during the busiest period of the day [61]. I note that at least half of the larger Royal Mail vehicles arrive before the appeal site would begin its daily operations [136, 13], and that the peak period for the delivery office of 08.00-09.30 hours [136] does not coincide with that predicted for the proposed development of 14.00-15.00 hours [61]. Whilst vehicles could arrive before the gates were opened for the day, it is suggested that a condition concerning a deliveries and servicing management plan (DSMP) should include requirements for a booking system for the arrival of HGVs and a strategy to prevent vehicles parking in Windsor Grove. It is not necessary for the DSMP to be the subject of a planning obligation as proposed by Royal Mail: the measures included in a possible suggested condition (Annex, No 24), together with conditions to restrict the size of vehicles, restrict the movement of N3 vehicles during peak school hours and to require the gates at the access to remain open when the site is operating (Nos 25-27) would be appropriate to control traffic movement on Windsor Grove, and are capable of enforcement. Planning obligations would provide contributions towards the highway works on Windsor Grove, and the restriction on right-turning HGVs exiting the road would only apply to development traffic. With the safeguard of these measures, I consider that the proposal would not interfere with the movement of vehicles to and from the delivery office.

162. It is suggested that the DSMP should include a strategy to manage vehicles servicing the site. An important component of such a strategy would be an HGV routing plan, and that submitted as part of the transport assessment proposes that HGVs travel between Windsor Grove and the A214 to the south on Norwood High Street and Elder Road, thereby avoiding West Norwood centre. Whilst the monitoring regime incorporated in the planning agreement should secure compliance with the specified transport measures, there is a risk that occasionally an HGV may approach the site along Norwood High Street from the north. This part of Norwood High Street is crossed by a low railway bridge [8], and Network Rail seeks a contribution towards the cost of installing a crash protection beam at this location.
163. The proposed DSMP specifies a maximum length of vehicle of 10.2m and requires dimensions of servicing and delivery vehicles to be agreed. I heard that the maximum height of vehicles travelling to the site would be 14'3" [61]. This height provides for 6" of clearance to the maximum permitted height of vehicles below the bridge. Vehicles travelling to the recycling centre would include skip loaders [49]. The load on these vehicles may not be fully enclosed and it is possible that it could project a few inches above the height of the vehicle. A vehicle loaded just more than 6" above the maximum vehicle height would collide with the bridge. I acknowledge that the likelihood of such incidents is low, given monitoring requirements in relation to the proposed transport restrictions. However they cannot be ruled out, and the implications of such incidents, in respect of highway safety, obstruction of the highway, and damage to the bridge are severe. Consequently, I share the view of Network Rail that the obligation providing a contribution towards a crash protection beam would be necessary for the scheme to proceed.
164. The 156 additional vehicle movements generated by the proposal would be relatively modest in the context of the 2,943 movements on Norwood High Street between 08.00 and 17.00. Doubt had been cast by Mr Bernstein about the

appropriateness of HGVs travelling to and from the appeal site on the B232 (Norwood High Street and Elder Road) [132]. I note that the suitability of the road network to carry vehicles generated by the appeal proposal has been endorsed in a review of the transport assessment [60], and the LPA had no objection on highway grounds subject to a package of mitigation measures [26-28]. Moreover the right turn ban from Windsor Grove, to be funded under a planning obligation, would only apply to development traffic [14], and would not result in the transfer of existing HGV movements to the B232 in a southern direction. Contributions would also be provided towards the following works along Norwood High Street and Elder Road: loading restrictions outside 80 Norwood High Street, advanced stop lines at the junction with Chapel Road and Gipsy Road, raised side-road entry treatment at Linton Grove, a zebra crossing at St Luke's School, and enhanced pedestrian crossing facilities at the junction with the A214 [14]. These works concern the road which would act as the principal link between Windsor Grove and the wider highway network, and with them in place I am satisfied that the impact of additional traffic would be appropriately mitigated.

165. I conclude that the proposed development would neither reduce highway safety nor impair traffic movement in the locality, and it would not conflict with Policy T4 of The London Plan or Policy T1(G) of the Local Plan.

The sustainable management of waste

166. Policy EN7 of the Local Plan is concerned with the sustainable management of waste in Lambeth. There is a capacity gap for waste management sites in the Borough, and intensified use of the appeal site would both support circular economy principles and contribute to identifying capacity to meet the identified waste need, in accordance with parts A(i) and (ii) of the policy. In supporting the circular economy and encouraging waste minimisation through the reuse of materials, the proposal would be consistent with parts A(1) and (2) of Policy SI7 of The London Plan.

167. The greater part of the land at Windsor Grove is identified on the Policies Map as a waste site [21], and such sites are safeguarded under part A(iv) of Policy EN7. This part of the policy encourages the intensification of existing waste sites where appropriate. I have found that the development would cause a minor level of harm to the environment for pedestrians and cyclists (above, para 153), but that this would not amount to an unacceptable effect, and this factor would not, therefore, render the level of intensification proposed inappropriate.

168. The Local Plan assesses that the capacity gap in waste management could grow to 136,632 tonnes by 2036, requiring a land take of 2.3ha [62]. At the inquiry, the Appellant made clear that if planning permission were granted for the appeal proposal, it would be used to provide compensatory capacity for the loss of the Shakespeare Road site to housing [16]. Allowing for the previous throughput of 152tpa at the site, the proposal would provide additional capacity of 24,848tpa here. Taking the loss of Shakespeare Road into account, the proposal would provide, at most, additional capacity for Lambeth of 4,697tpa [102]. Whilst that would be beneficial, it would only make a modest contribution to addressing the capacity gap.

169. The Local Plan anticipates that the land needed to meet Lambeth's waste needs can be found in the KIBAs. Taking account of vacancy rates, business churn and changes in waste stock, the evidence base calculated that 8ha could

come forward over the plan period [104]. Whilst the supporting text to Policy EN7 endorses this approach, there is inevitably an element of uncertainty about the future availability of land for waste purposes. I do not consider that the prospect of suitable land coming forward in the future should be a reason to discount the contribution from a firm proposal to use the land at the appeal site for waste management.

170. Part B of Policy EN7 is a cross-reference to criteria in Policy SI8 of The London Plan and national waste planning policy. I consider first the criteria to increase the capacity of existing sites in Part E of Policy SI8. As the proposal would contribute to London's circular economy and achieve a positive carbon outcome through recycling high carbon content materials [63], it would comply with criteria 2 and 3. The greater part of the site is not only within a KIBA, which the Local Plan recognises as suitable for waste use, but is also a safeguarded waste site [21], and has a lawful use for waste purposes [12]. The principle of using the land for recycling and waste management is acceptable. Although the scale of the proposal would involve a much greater throughput than that of the former use, there would be no unacceptable effect on the character of the area, the amenity of pedestrians, cyclists and local residents, highway safety or traffic movement (above, paras 150, 153, 160 & 165), and the proposal would therefore comply with criteria 1,4 & 5.
171. Appendix B of the NPPW sets out a series of locational criteria. There is no detailed evidence before me to indicate that there is any substantive concern in respect of water quality (a), land instability (b), historic heritage (e), odours (h), or vermin and birds (i). The site is in a suitable location for a waste management facility (l). Recycling operations would be contained within a shed, and the redeveloped site would also contain an office building, a sub-station and a small parking area [13]. These features would be acceptable within a KIBA, and, having regard to the variety of uses in the locality, the inclusion of a green wall and roof on the shed and the retention of tree cover to the south-west and south-east of this building would assist in assimilating the development into its surroundings. Consequently, I find that the visual impact of the development would be acceptable (c), and as the recycling activities would be contained by the building, I do not anticipate that litter would be a concern (k).
172. Part of the site is within a SINC [21]; however the LPA does not dispute that the proposal would provide 113% biodiversity net gain [106], and it would not have an adverse effect on nature conservation (d). I have found that the development would not give rise to unacceptable effects in respect of traffic movement (f) and noise (j), and it is common ground between the Appellant and the LPA that it would not have a significant impact on air quality in West Norwood (g) [26]. Conditions are proposed which would control piling, air quality, noise, vibration and external lighting (g, j). I am satisfied that the proposal would comply with the locational criteria of the NPPW.
173. I conclude that the proposed development would contribute to the sustainable management of waste in Lambeth: bearing in mind the modest reduction which would result in the capacity gap, this is a matter to which I accord moderate weight.

Consistency with the Development Plan

The London Plan

174. The proposal involves land with a lawful use for waste purposes to which Policy SI9 applies. Part A of the policy requires that existing waste sites are safeguarded and retained in waste management use, and the proposal would be consistent with this provision. The proposed development is for a metal recycling facility. As such it would help to promote a more circular economy and encourage waste minimisation through the reuse of materials, in line with Policy SI7 (Parts A(1) & (2)). I have found that the proposal would meet the criteria in Part E of Policy SI8 against which proposals to increase the capacity of sites are to be evaluated. At only 152tpa, the previous operation at the appeal site involved a low level of throughput: bearing in mind compliance with the criteria in Policy SI8(E) and Appendix B of the NPPW, the increase to 25,000tpa would optimise the capacity of the site as sought in Part A(3) of The London Plan policy.
175. The Community suggested that the move to this part of Lambeth would involve longer journeys compared with Southwark Metals existing operation at Trundleys Yard. The Appellant argued that the site would be well-placed to serve the local area, and I accept that a change in location may well lead to consequent adjustments to the customer base. In any event, in line with Part F(3) the site, which is close to one of the routes into West Norwood and only a short distance from the A214, would be accessible to local communities and businesses. Part F(1) refers to job creation and social value benefits, including skills, training and apprenticeship opportunities. As the proposal would involve the relocation of an established firm, not all of the jobs provided at Windsor Grove are likely to represent a net gain in employment. However a planning obligation would require the submission of a construction and skills construction plan and an employment and skills end use plan which would provide details of apprenticeships and job opportunities for Lambeth residents.
176. Traffic noise would contribute to a less pleasant experience for pedestrians and cyclists on Windsor Grove, but given the limited extent of interaction between these different road users, the proposal would avoid significant adverse noise impacts on their quality of life, as required by Policy D14.
177. The proposal would not increase road danger, and mitigation is proposed, both on Windsor Grove and along Norwood High Street/ Elder Road to address the impact of additional traffic movement. Whilst the proposal would, in consequence, be consistent with Policy T4, it would not be supported by Policy T2 which is concerned with Healthy Streets. Contrary to Part D, the proposal would not reduce the dominance of vehicles on London's streets, and the Healthy Streets assessment of a reduced score suggests a slight deterioration in the effectiveness of Windsor Grove in encouraging people to walk and cycle more (above, para 151). On the other hand, the checklist does not take account of the full extent of mitigation measures proposed for this commercial scheme, and the impact of additional traffic movement would not be so great as to be unacceptable to pedestrians and cyclists.
178. Redevelopment of the appeal site would harm part of the SINC. That is a small part of the overall SINC, and measures to improve biodiversity are proposed in line with the mitigation strategy sought in Policy G6(C), where harm to a SINC is unavoidable. Moreover, features included in the proposed

landscaping, notably additional planting to the south-west and south-east of the recycling shed, the green wall and green roof, would contribute to the greening of London and be consistent with Policy G5.

The Local Plan

179. I have already found that the proposal would contribute to sustainable waste management in Lambeth, and in so doing it would comply with the relevant parts of Policy EN7. The site is part of the West Norwood KIBA, and the proposal for a waste recycling and management facility would fall within the range of uses envisaged as appropriate for KIBAs in Policy ED3.
180. The proposal would not unacceptably harm the living conditions of local residents and does not breach Policy Q2, and the provision of safety measures such as tactile paving on Windsor Grove, raised side-road entry treatment at Linton Grove, and a zebra crossing at St Luke's School would all reduce the prospect of road danger in line with Policy T1(G). As I have explained in respect of The London Plan (above, para 178), the proposal would include compensatory measures in response to the harm to a small part of the SINC, an approach which is advocated in Policy EN1(B).

Conclusions on the Development Plan

181. In addition to the policies specifically referred to above, several others have been identified as relevant by the main parties, and are listed in the statement of common ground. There is nothing before me to indicate any conflict with these policies. A number provide support for possible conditions in the event of planning permission being granted.
182. Due to the marginally worse Healthy Streets assessment with the appeal proposal in place, it would not align with Policy T2 of The London Plan. That said I have found that the proposal would not have an unacceptable effect on the amenity of pedestrians and cyclists. Otherwise the proposal would be consistent with the most relevant policies of The London Plan and the Local Plan, in particular those which directly address waste management. I conclude that the proposed development would comply with the Development Plan considered as a whole.

Other considerations

Nature conservation

183. About 28.9% of the appeal site is part of the Railway Lineside – West Norwood SINC [20]. At 0.11ha this represents about 1.27% of the total area of the SINC. An extended phase 1 habitat survey, undertaken for the Appellant, recorded areas of dense and scattered scrub, woodland, scattered trees, and tall ruderal vegetation [66]. The condition of the habitats was assessed as poor, and their distinctiveness between low and medium. There is no substantive contrary evidence about the existing condition of that part of the SINC within the appeal site.
184. A line of trees along the south-west boundary and some at the south-east end of the site would be retained. Elsewhere, however, construction of the buildings and yard would result in the loss of vegetation. The scheme includes additional tree planting to the south-east of the recycling shed, together with shrub

borders, and shrubs and ground cover to supplement the retained trees along the south-west boundary. In addition a green wall and sedum roof form part of the landscaping package. Conditions are suggested to require the submission of a landscape ecological management plan and to secure implementation and maintenance of the planting. Whilst distinctiveness of the planting proposed would remain within the low-medium range, habitat condition is assessed as good, with the scheme achieving an overall net gain in biodiversity of 113.89% [66]. The LPA does not dispute this outcome, but argues that an uplift in value would meet, rather than exceed policy expectations [107]. Whilst Policy G5 of The London Plan and Policy EN1 of the Local Plan seek improvements in urban greening and biodiversity, the extent of the gain here is a clear benefit of the scheme to which I attach significant weight.

The NPPF

185. Paragraph 81 of the NPPF makes clear that planning decisions should help to create the conditions in which businesses can invest, expand and adapt, and paragraphs 119 & 120 support making effective use of land. Redevelopment of the brownfield land of the appeal site within a KIBA would be consistent with these policy intentions.
186. Paragraphs 9 & 124(d) refer to the importance of reflecting the character of an area, and paragraph 119 refers to safeguarding the environment and ensuring safe and healthy living conditions. The proposed recycling facility in this area of mixed uses would not detract from the character of the area (above, para 149), nor unacceptably worsen the living conditions of local residents (above, para 157). The site is safeguarded for waste purposes, and is not in an unsuitable place for intensification of this use; there is, therefore, no conflict with paragraph 8(a).
187. Whilst I have found that the development would not have an unacceptable effect on pedestrians and cyclists, it would make their experience on Windsor Grove less pleasant (above, paras 152, 153), whereas paragraph 104(c) encourages opportunities to promote these forms of active travel. However safe and suitable access to the site can be achieved, and mitigation measures are put forward to address the impact of the scheme on the local road network. Accordingly, the proposal would be consistent with paragraphs 110(b) and (d).
188. Harm to that part of the SINC within the site cannot be avoided, but suitable mitigation measures are proposed, which would enhance biodiversity. There would be no conflict with paragraph 180 on this matter.
189. I find that the proposed development would for the most part be consistent with policies in the NPPF, and that it would thereby reflect its economic, social and environmental objectives.

Compensatory capacity

190. The appeal proposal would provide compensatory capacity for the Shakespeare Road waste transfer facility, thereby removing a barrier to the implementation of the planning permission for housing on that site [16]. There is a need for additional housing in Lambeth [68]: however there is no certainty that the Shakespeare Road permission would be implemented, accordingly this is a benefit which merits no more than moderate weight.

191. The Community referred to the sites occupied by Southwark Metals at Ruby Triangle in Southwark and subsequently at Trundleys Yard in Lewisham, and argued that the appeal site could not provide compensation for both its former location and Shakespeare Road [117]. The planning agreement relating to the planning permission for redevelopment of Ruby Triangle placed a restriction on that scheme until a compensatory waste site had been approved by the London Borough of Southwark and the use implemented [15]. That planning obligation has been discharged. The inquiry heard that Trundleys Yard has only been used as an interim base, and it has not formed part of the permanent supply of waste sites in Lewisham. Consequently, the appeal site is not required as compensatory capacity for sites occupied by Southwark Metals, and is able to fulfil this function in respect of Shakespeare Road.

Air quality

192. Concerns have been expressed by The Community, Ms Hayes MP and members of the local community about the effect of the development on air quality [121, 126, 138]. An air quality assessment was undertaken for the proposed development. Emissions within the recycling shed would discharge through louvres on the north-west elevation, away from housing and the nearby schools, and the landscaping proposed is put forward as a measure which would benefit local air quality [75]. The air quality report concludes that the effect during construction and operation, including from additional traffic, would not be significant. I note that the air quality chapter of the environmental statement was reviewed on behalf of the LPA by independent consultants, and, following clarifications, endorsed. Suggested conditions would require the approval of an air quality and dust management plan, which would cover both construction and operational phases of the development, and compliance of non-road mobile machinery with low emission zone requirements. With these safeguards in place, I consider that the proposal would not result in a worsening of air quality and would not conflict with Policy S1 of The London Plan.

Planning obligations

193. I have already referred to obligations concerning contributions towards highway works, transport monitoring, a crash protection beam at the railway bridge on Norwood High Street, and measures to support employment. I consider that all of these obligations are necessary for the development to proceed.
194. To promote the use of sustainable modes of transport in line with Policy T1 of the Local Plan and the NPPF, a travel plan is the subject of a suggested condition. It is fair and reasonable for an obligation to require a contribution towards the cost of monitoring the travel plan.
195. Given the proximity of housing to the appeal site, I agree that the site should be registered under the Considerate Constructors Scheme to lessen the prospect of any adverse impact on the living conditions of local residents during construction of the development.
196. Policy SI2 of The London Plan requires that, where the zero-carbon target for development cannot be met on site, any shortfall should be addressed by means of a financial contribution towards the Borough's carbon offset fund or an off-site

proposal. On this basis, a carbon offset contribution is necessary and directly related to the proposed development.

197. I consider that the statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations are met in respect of all the obligations included in the planning agreement, and that its provisions are material considerations in this appeal.

The fallback position

198. The Appellant has stated that, if the appeal is dismissed, the car breaking use would be reinstated, but with a higher throughput of 7,800tpa [76], resulting in a more environmentally harmful operation than the appeal proposal. In support of this position, a site plan was submitted which shows mobile vehicle depollution stations on an extended hardstanding. At the inquiry, the Appellant's planning witness acknowledged that extension of the hardstanding would require permission, but argued that this work would not be necessary for the operation of the depollution stations [111]. However the existing hardstanding is not only smaller than that put forward as part of the fallback position, but it is also uneven, as is the unsurfaced ground. I do not consider that it would provide a suitable base on which to position vehicle depollution stations. I have reached the view that reinstatement on car breaking as outlined by the Appellant would necessarily involve works to the hardstanding which would require planning permission. Accordingly I give no weight to the claimed fallback position.

Conditions

199. I have considered the suggested conditions (CD16.5) in the light of the advice in PPG and the discussion on conditions at the inquiry. Those conditions which I consider would be necessary if planning permission were granted are listed in schedule 1 of the annex to this report, together with the reasons for their imposition. In accordance with section 100ZA(5) of the Town & Country Planning Act 1990, the Appellant has agreed to those conditions which would be pre-commencement conditions (CD16.33).

200. The site is in flood zone 1, and the LPA's report refers to mitigation measures to address a surface water flood risk together with an appropriate drainage strategy. Both of these measures could be the subject of conditions, and I do not consider that an additional condition requiring a flood warning and evacuation plan would also be necessary (CD16.5, No 11). The condition suggested by the main parties concerning carbon emissions (CD16.5, No 13) would be unnecessary as this matter is covered by a planning obligation (above, para 195). The Community suggested that conditions should specify the maximum weight of HGVs and protect the drainage infrastructure below the site access. Given that suggested condition No 25 in the Annex to this report would limit their size by restricting the height and length of HGVs, I consider that additional control on weight would be unnecessary. There is nothing before me from the drainage authorities to indicate that a condition concerning the existing drainage infrastructure would be necessary. In considering the form of suggested conditions concerning a CTMP, a DSMP, and transport restrictions, I have taken into account the detailed comments of Royal Mail [136]. For the most part, the measures included in the possible condition on transport restrictions suggested by the main parties duplicate content put forward in that suggested for a DMSP (CD16.5, Nos 26 & 24). I consider that these matters are most appropriately

addressed by separate conditions concerning a DSMP, the size of vehicles, the movement of vehicles during peak school times, and the opening of the gates at the site access.

Overall conclusions

201. As the waste chapter of PPG advises, it should not be assumed that, because a particular area has hosted waste disposal facilities, it is appropriate to add to these or extend their life. However, I have found that the appeal proposal would comply with the Development Plan, considered as a whole. Although the increase in traffic would make conditions on Windsor Grove less pleasant for pedestrians and cyclists, that would not result in an unacceptable effect: it does though mean that in this respect the proposal would not fully reflect the NPPF. There would inevitably be some harm to that part of the SINC which lies within the site, but that is clearly outweighed by the biodiversity net gain which would be provided, and mitigation for harm is in line with policies in The London Plan and the Local Plan. I conclude that the limited harm identified is insufficient to outweigh the support provided for the proposal by the Development Plan.
202. The additional waste capacity provided by the scheme (allowing for the loss of the existing facility at Shakespeare Road) is a benefit carrying moderate weight, as is the additional housing at Shakespeare Road which the compensatory capacity at Windsor Grove would allow to come forward. Some local employment opportunities and the enhanced biodiversity would also be benefits of the development. These matters clearly outweigh the limited harm associated with the proposal.
203. Reference has been made in the representations to the effect of the development on persons with poor health and children [128]. The public sector equality duty (set out in section 149 of the Equality Act 2010), requires, amongst other matters, that a public authority must have due regard to the need to eliminate discrimination, and to advance equality of opportunity between persons who share a protected characteristic and those who do not share it. Age and disability are protected characteristics. No detailed information about the age structure and health of those living in nearby dwellings has been provided. However, I have found that the proposal would not unacceptably worsen the living conditions of local residents, and those with protected characteristics would not be disadvantaged.

Recommendation

204. I recommend that the appeal be allowed, and that planning permission be granted subject to the conditions in schedule 1 of the Annex to this report.

Richard Clegg

INSPECTOR

ANNEX

SCHEDULE 1 - SUGGESTED CONDITIONS

- 1) The development hereby permitted shall commence before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

- 2) The development hereby permitted shall be carried out in accordance with the plans listed in schedule 2.

Reason: To provide certainty.

- 3) No non-road mobile machinery (NRMM) shall be used on the site unless it is compliant with the NRMM Low Emission Zone requirements (or any superseding requirements) and until it has been registered for use on the site on the NRMM register (or any superseding register).

Reason: To ensure that air quality is not adversely affected by the development in line with Policy SI1 of The London Plan and the Mayor's SPG: The Control of Dust and Emissions During Construction and Demolition.

- 4) No development shall commence until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to and approved in writing by the local planning authority:

- i) A site investigation scheme to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
- ii) The site investigation results and the detailed risk assessment resulting from (i).
- iii) An options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv) A verification plan providing details of the data that will be collected to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: To safeguard users and occupiers of the site and the wider environment from risks associated with contaminants by ensuring that the contaminated land is properly treated and made safe before development, in accordance with Policy EN4 of the Lambeth Local Plan.

- 5) Prior to occupation of any part of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority. The report shall include

results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason: To safeguard users and occupiers of the site and the wider environment from risks associated with contaminants by ensuring that the contaminated land has been properly treated and made safe, in accordance with Policy EN4 of the Lambeth Local Plan.

- 6) If, during development, contamination not previously identified is found to be present at the site, then no further development shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the remediation strategy detailing how this unsuspected contamination will be dealt with in accordance with the objectives of the previously approved remediation strategy.

Reason: To safeguard users and occupiers of the site and the wider environment from risks associated with contaminants by ensuring that the contaminated land is properly treated and made safe, in accordance with Policy EN4 of the Lambeth Local Plan

- 7) No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Measures should also be employed to reduce the potential adverse effects of vibration such as the use of the pressed-in method for sheet piling rather than driven, should site conditions allow. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: To ensure that the development does not harm groundwater resources in line with the National Planning Policy Framework (Paragraph 170), and to safeguard residential amenity and biodiversity value around the site during the whole of the construction period, having regard to Policy Q2 of the Lambeth Local Plan and Policy SI5 of The London Plan.

- 8) No development shall commence until mitigation measures to address the effect on air quality and dust emissions have been put in place in accordance with an air quality and dust management plan (AQDMP), which has been submitted to and approved in writing by the local planning authority. The AQDMP shall include the following:
- i) A summary of work to be carried out.
 - ii) Proposed haul routes, location of site equipment including supply of water for damping down, source of water, drainage and enclosed areas to prevent contaminated water leaving the site.

- iii) An inventory and timetable of all dust and NOx air pollutant generating activities.
- iv) A list of all dust and emission control methods to be employed and how they relate to the AQDMP.
- v) Details of any fuel stored on-site.
- vi) Details of a trained person on-site who is responsible for air quality.
- vii) A summary of monitoring protocols and agreed procedure of notification to the local planning authority.
- viii) A log book for action taken in response to incidents or dust-causing episodes, the mitigation measures taken to remedy any harm caused, and measures employed to prevent a similar incident reoccurring.
- ix) Details of automatic continuous PM10 monitoring which should be carried out on the site.

Baseline monitoring must commence at least three months before the commencement of the enabling works. If baseline monitoring cannot begin during this time frame, PM10 data for this 3 months advance period from monitors already in place at the site may be submitted, subject to the approval of details by the local planning authority. Monitors must then be installed on-site at locations indicative of exposure of sensitive receptors to dust emitted from works from the commencement of development and should continue throughout the construction period. The development shall thereafter be carried out and monitored in accordance with the details and measures in the approved AQDMP.

Reason: To manage and mitigate the impact of the development on air quality and dust emissions in the area, and to avoid unacceptable damage to the environment, in accordance with Policy SI1 of the London Plan and the London Plan Supplementary Planning Guidance for Sustainable Design and Construction and Control of Dust and Emissions during Construction and Demolition.

- 9) No development shall commence until a construction and environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details set out in the Environmental Statement Volume 1, Chapter 14 Mitigation and Monitoring Schedule, including the following measures:
 - i) An introduction consisting of construction environmental management plan, definitions and abbreviations and project description and location.
 - ii) A description of management responsibilities.
 - iii) A description of the construction and demolition programme which identifies activities likely to cause high levels of noise, vibration or dust.
 - iv) Site working hours and a named person for residents to contact.

- v) Detailed site logistics arrangements.
- vi) Details of parking, delivery, and storage arrangements.
- vii) Details regarding dust and noise mitigation measures to be deployed including identification of sensitive receptors, together with arrangements for ongoing continuous monitoring and provision of monitoring results to the local planning authority.
- viii) Measures to prevent the deposit of mud and debris on the public highway.
- ix) Measures to mitigate the impact of construction upon the safety of the surrounding area for cyclists.
- x) Any other measures to mitigate the impact of construction upon the amenity of the area and the safety of the highway network.
- xi) A temporary lighting strategy.
- xii) Measures to heighten awareness of the potential for ecological features as set out in the Environmental Statement Volume 1, Chapter 11 Ecology and Biodiversity.
- xiii) Communication arrangements with the local planning authority and the local community.
- xiv) Details demonstrating that Street Space for London Plan guidance informed the CEMP.

The development shall be carried out in accordance with the approved CEMP.

Reason: To avoid hazard and obstruction being caused to users of the public highway and to safeguard residential amenity and biodiversity value around the site during the construction period, in accordance with Policies T7, EN1 and Q2 of the Lambeth Local Plan.

- 10) A construction traffic management plan (CTMP) shall be submitted to the local planning authority prior to the commencement of construction works which shall set out measures to control the effect of the construction process on the local transport network. The CTMP shall include:
- i) Construction traffic access routes.
 - ii) The timing of construction traffic movements.
 - iii) Traffic management procedures for waste disposal vehicles.
 - iv) Personnel and vehicle segregation.
 - v) Traffic management equipment including signage.
 - vi) Arrangements for the loading and unloading of vehicles.
 - vii) A construction travel plan which encourages the use of public transport.

- viii) Details of wheel washing facilities.
- ix) Arrangements for road sweeping on nearby roads.
- x) Traffic management measures to minimise the effect of construction traffic on the local road network.

The development shall be carried out in accordance with the approved CTMP.

Reason: To avoid hazard and obstruction being caused to users of the public highway and to safeguard residential amenity during the construction period, in accordance with Policies T7 and Q2 of the Lambeth Local Plan.

- 11) No development shall take place until measures to safeguard trees have been implemented in accordance with an arboricultural impact assessment, which has been submitted to and approved in writing by the local planning authority. The measures in the assessment shall be maintained until the completion of the development and shall reflect the details in the Environmental Statement Volume 1, Chapter 14 Mitigation and Measures.

Reason: To ensure the retention of, and avoid unacceptable damage to, the retained trees on the in accordance with Policy G7 of The London Plan and Policy Q10 of the Lambeth Local Plan.

- 12) No development shall take place until details of a sustainable drainage system (SDS), including its implementation, maintenance and management, have been submitted to and approved by the local planning authority. The SDS should reflect the mitigations and measures set out in the Environmental Statement Volume 1. The proposed drainage outfalls must account for the potential surcharging of the culverted River Effra. Non-return valves and appropriate cover levels should be applied to avoid any sewer surcharge entering the private drainage network within the site. The SDS shall include:

- i) Information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, and the measures taken to prevent pollution of the receiving groundwater and/or surface waters.
- ii) A timetable for implementation of the system.
- iii) A management and maintenance plan, which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the SDS throughout the lifetime of the development.

The approved SDS shall be implemented and thereafter managed and maintained in accordance with the approved scheme and timetable.

Reason: To manage the water environment of the development and to mitigate the impact on flood risk, water quality, habitat and amenity value, in accordance with Policies EN5 and EN6 of the Lambeth Local Plan and Policy SI12 of The London Plan.

- 13) The development shall be constructed in accordance with the following flood mitigation measures identified in the Environmental Statement Volume 1:
- i) The finished floor level of the buildings within the development shall be a minimum of 48.57m AOD to minimise any surface water flooding effects on the proposed development.
 - ii) Any critical equipment or plant key to the operation of the proposed metal recycling and management facility that could be affected by potential flooding should be located at a safe appropriate level to avoid any risk or damage.

Reason: In order to mitigate the impact of a flood event on users of the development, having regard to Policy SI12 of The London Plan and Policy EN5 of the Lambeth Local Plan.

- 14) Prior to commencement of above-ground works on site, a Building Research Establishment Environmental Assessment Method (BREEAM) pre-assessment should be submitted to and approved in writing by the local planning authority demonstrating that a rating of 'Excellent' has been achieved. (If this is not possible, justification and a minimum of Very Good should be achieved with a minimum score of 63%).

Within six months of work commencing on site, BREEAM Design Stage certificates and summary score sheets should be submitted to and approved in writing by the local planning authority demonstrating that a rating of 'Excellent' has been achieved. (If this is not possible, justification and a minimum of Very Good should be achieved with a minimum score of 63%).

Within six months of first occupation, BREEAM Post Construction certificates and summary score sheets for both assessments should be submitted to and approved in writing by the local planning authority demonstrating that a rating of 'Excellent' has been achieved, and that a minimum of one credit has been achieved for Wat 01 'Water Consumption' in both BREEAM assessments. (If BREEAM Excellent is not possible, justification and a minimum of Very Good should be achieved with a minimum score of 63%).

Reason: To ensure that the development has an acceptable level of sustainability, having regard to Policy EN4 of the Lambeth Local Plan and Policy SI2 of The London Plan.

- 15) Prior to the commencement of the above-ground works of the development, the applicant should submit an Overheating Assessment Report showing that the risk of overheating has been reduced in line with the Mayor's cooling hierarchy. The report should demonstrate compliance against CIBSE TM52, should provide the results from testing using CIBSE TM49 and should demonstrate that the cooling hierarchy has been followed and the reliance on active cooling has been minimized. The mitigation measures shall thereafter be retained for the lifetime of the development.

Reason: To ensure that the design of the development reduces the potential for overheating and reliance on air conditioning systems, having regard to Policies SI2 and SI4 of The London Plan.

- 16) Prior to the occupation of the development hereby permitted, evidence should be submitted to and approved in writing by the Local Planning Authority to demonstrate that water metering, water saving and leak detection measures have been incorporated into the design (and justification provided where these measures are deemed inappropriate). The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the development would achieve an acceptable standard of water efficiency, having regard to Policy SI5 of the London Plan.

- 17) Prior to first occupation of the development, As Built Simplified Building Energy Model (SBEM) calculations as an output of the National Calculation Method should be submitted to and approved in writing by the Local Planning Authority demonstrating that the development has achieved a minimum of 50% reduction in carbon emissions over that required by Part L of the Building Regulations 2013, in line with the Energy Report by Waterman Building Services Ltd, May 2020.

Reason: To ensure that the development makes the maximum contribution to minimising carbon dioxide emissions, having regard to Policies SI2 and SI3 of The London Plan and Policy EN3 of the Lambeth Local Plan.

- 18) Prior to commencement of the above ground works of the development hereby permitted, a landscape ecological management plan (LEMP) shall be submitted to and approved in writing by the local planning authority. All tree, shrub and hedge planting included within the scheme shall accord with BS3936:1992, BS4043:1989 and BS4428:1989 (or subsequent superseding equivalent) and current arboricultural best practice.

The LEMP shall demonstrate that a minimum net biodiversity gain value of 113% and a minimum urban greening factor of 0.48 would be achieved. The LEMP shall include the following:

- i) The treatment of all parts of the site not covered by buildings including walls and boundary features.
- ii) The quantity, size, species, position and the proposed time of planting of all trees and shrubs to be planted including details of appropriate infrastructure to support long-term survival.
- iii) An indication of how all trees and shrubs will integrate with the proposal in the long term with regard to their mature size and anticipated routine maintenance and protection including irrigation systems.
- iv) Details of infrastructure to maximise rooting capacity and optimize rooting conditions.
- v) Details of all shrubs and hedges to be planted that are intended to achieve a significant size and presence in the landscape.
- vi) All hard landscaping features.

- vii) Biodiversity mitigation and enhancement measures (including bird and bat boxes, wildflower grassland, bulbs, native planting, hedgehog nesting opportunities, and habitats for invertebrates and reptiles) as set out in the Environmental Statement Volume 1, Chapter 14 (Mitigation and Measures) – Table 14.5.

The development shall be thereafter carried out in accordance with the approved LEMP, and the relevant aspects of the development specified in the LEMP shall be completed prior to the date of occupation of the site.

Reason: In order to introduce high quality landscaping in and around the site in the interests of the ecological value of the site, and to ensure satisfactory landscaping of the site in the interests of visual amenity, having regard to Policy G6 of The London Plan and Policies EN1, Q2, Q6, Q9, and Q10 of the Lambeth Local Plan.

- 19) All planting, seeding or turfing comprised in the approved landscaping scheme shall be carried out in the first planting and seeding season following the initial occupation of the development hereby permitted or the substantial completion of the development, whichever is the sooner. Any trees, hedgerows or shrubs forming part of the approved landscaping scheme which within a period of five years from the initial occupation or substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In order to establish high quality soft landscaping in and around the site in the interests of the ecological value of the site and to ensure a satisfactory landscaping of the site in the interests of visual amenity, having regard to Policy G6 of The London Plan and Policies EN1, Q2, Q9 and Q10 of the Lambeth Local Plan.

- 20) Within six months of construction work starting on site, a detailed specification of the green roof and living wall shall be submitted to and approved in writing by the local planning authority. The specification shall include details of the quantity, size, species, position and the proposed time of planting of all elements of the green roof and wall, together with details of their anticipated routine maintenance and protection.

The green roof and living wall shall be installed prior to occupation of the development and thereafter maintained in accordance with the approved details and shall be retained for the lifetime of the development.

Reason: In order to promote biodiversity and rainwater attenuation on the site, having regard to Policies G1, G5, SI2 and SI13 of The London Plan and Policies EN1, EN4, EN5, EN6 and Q9 of the Lambeth Local Plan.

- 21) If within 5 years of the installation of the green roof any planting forming part of the green roof shall die, be removed, or become seriously damaged or diseased, then this planting shall be replaced in the next planting season with planting of a similar size and species.

Reason: To safeguard the visual amenities of the area and to ensure that the development has an acceptable level of sustainability and biodiversity,

having regard to Policies G1, G5, SI2 and SI13 of The London Plan and Policies EN1, EN4, EN5, EN6 and Q9 of the Lambeth Local Plan.

- 22) The operation of the development hereby permitted shall not commence until a travel plan has been submitted and approved in writing by the local planning authority. The measures in the travel plan which are required to be implemented before occupation shall be so implemented prior to the initial occupation and shall be so maintained for the duration of the development.

Reason: To promote sustainable transport modes, having regard to paragraph 110(a) of the National Planning Policy Framework, Policies T1 and T4 of The London Plan and Policies T1 and T6 of the Lambeth Local Plan.

- 23) Prior to initial occupation of the development hereby permitted, cycle parking facilities shall be provided in accordance with a scheme which has been submitted to, and approved in writing by, the local planning authority.

Reason: To promote sustainable modes of transport, having regard to paragraph 110(a) of the National Planning Policy Framework, Policy T5 of The London Plan, and Policies T1, T3 and Q13 of the Lambeth Local Plan.

- 24) The development hereby permitted shall not commence operation until a deliveries and servicing management plan (DSMP) has been submitted and approved in writing by the local planning authority. The DSMP should include the following details:

- i) A booking system for the arrival of all Heavy Goods Vehicles (HGVs) at all times, including a definition of 'HGVs'.
- ii) The frequency of other servicing vehicles such as refuse collection vehicles.
- iii) The dimensions of delivery and servicing vehicles.
- iv) Proposed loading and delivery locations.
- v) A strategy to manage vehicles servicing the site.
- vi) A strategy to prevent vehicles accessing the site from parking in Windsor Grove.
- vii) A monitoring strategy to monitor the performance of the DSMP.
- viii) With the exception of the disabled person's bay, a restriction on the use of the parking spaces to operational vehicles.

The development hereby permitted shall thereafter be operated in accordance with the approved DSMP.

Reason: To protect the living conditions of nearby residents and the character of the surrounding area, having regard to Policies T4 and T9 of The London Plan and Policies Q2 and T7 of the Lambeth Local Plan, and to prevent obstruction of vehicle movements on Windsor Grove.

- 25) No vehicles with a length in excess of 10.2m and/ or a height in excess of 4.35m shall be permitted to access the site.

Reason: To protect the living conditions of nearby residents and the character of the surrounding area, having regard to Policies T4 and T9 of The London Plan and Policies Q2 and T7 of the Lambeth Local Plan, and to prevent obstruction of vehicle movements on Windsor Grove.

- 26) There shall be no movement of N3 vehicles (as defined by the Vehicle Certification Agency) into or out of the site between 08.00-0900 hours and 15.00-16.00 hours during school terms.

Reason: To maintain highway safety.

- 27) During the times specified in condition 32 when the site is operating, the gates at the access from Windsor Grove shall remain open for the passage of vehicles.

Reason: To prevent obstruction of vehicle movements on Windsor Grove.

- 28) All of the vehicular parking spaces within the development hereby permitted shall be provided with charging points for electric vehicles.

Reason: To encourage the uptake of electric vehicles, having regard to Policies T6 and T6.1 of The London Plan.

- 29) The operator of the metal waste recycling facility hereby approved is required to:

- i) Achieve at least silver Fleet Operator Recognition Scheme accreditation within 12 months of first occupation of the site.
- ii) Ensure that the occupier's fleet of vehicles achieve at least Euro VI vehicle emission standards within 12 months of first occupation of the site.

Reason: To protect the amenities of the surrounding area and to limit the effects of the increase in travel movements, having regard to Policies T4 and T9 of The London Plan and Policies Q2 and T8 of the Lambeth Local Plan.

- 30) Prior to the initial occupation of the development hereby approved, details and full specifications of ventilation extraction and filtration equipment, and ongoing maintenance plan (including elevational drawings) shall be submitted to and approved in writing by the local planning authority. The ventilation shall incorporate the provision of NOx and PM2.5 filtration to reduce emissions released through the ventilation system during the operational phase of the development. The development hereby approved shall not be occupied until the approved details are fully implemented. The approved flues, extraction and filtration equipment shall thereafter be retained and maintained in working order for the duration of the development in accordance with the approved details.

Reason: To protect the living conditions of local residents, having regard to Policy D14 of The London Plan and Policy Q2 of the Lambeth Local Plan.

- 31) The operation of any fixed plant and building services plant, shall not commence until an assessment of the acoustic impact arising from the operation of all internally and externally located plant has been submitted to and approved in writing by the local planning authority.

The assessment of the acoustic impact shall be undertaken in accordance with BS 4142:2014 (or subsequent superseding equivalent) and shall include a scheme of attenuation measures to ensure the rating level of noise emitted from the proposed building services plant is 5dB less than the background sound level.

The operation of any building services plant shall not commence until a post-installation noise assessment has been carried out to confirm compliance with the noise criteria. The scheme of attenuation measures shall be implemented fully in accordance with the approved details and attenuation measures, and shall be retained and maintained in working order for the duration of the development.

Reason: To protect the living conditions of local residents and the character of the surrounding area, having regard to Policy D14 of The London Plan and Policy Q2 of the Lambeth Local Plan.

- 32) The development hereby permitted shall not operate other than within the following times: 08.00 to 17.00 hours Monday to Friday, and 08.00 to 13.00 hours on Saturday. There shall be no operation of the premises on Sundays, bank holidays and public holidays.

Reason: To protect the living conditions of local residents and the character of the surrounding area, having regard to Policy SI8 of The London Plan and Policy Q2 of the Lambeth Local Plan.

- 33) Prior to commencement of the above ground works of the development hereby permitted, an application for Secured by Design Certification shall be made for the development hereby approved. Prior to the first occupation of the development, evidence of the development having achieved Secured by Design certification shall be submitted to and approved in writing by the local planning authority. The scheme shall thereafter be maintained in accordance with the measures required to achieve certification.

Reason: To ensure that satisfactory attention is given to security and community safety, having regard to Policy GC6 of The London Plan and Policy Q3 of the Lambeth Local Plan.

- 34) Prior to the initial occupation of the development hereby permitted, an external lighting scheme shall be submitted to and approved in writing by the local planning authority. The scheme should be designed in accordance with the recommendations in the Institute of Lighting Professional's (ILP's) Guidance Notes for the Reduction of Obtrusive Light, and should refer to the mitigations and measures set out in the Environmental Statement Volume 1.

The approved lighting scheme shall not be brought into operation until validation that it has been installed in accordance with the recommendations in the ILP's Guidance Notes for the Reduction of

Obtrusive Light has been submitted to and approved in writing by the local planning authority.

Reason: To protect the living conditions of local residents, the character of the surrounding area, and to safeguard the ecological value of the Railway Lineside – West Norwood SINC, having regard to Policy SI8 of The London Plan and Policies Q2 and EN1 of the Lambeth Local Plan.

- 35) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the premises shall be used as a metal waste recycling facility and for no other purpose in Class B2 of the Town and Country (Use Classes) (Amendment) (England) Regulations 2020 or any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To safeguard waste capacity in the Borough, and to ensure that other uses are not introduced without further assessment, having regard to Policies ED3, EN7 and T6 of the Lambeth Local Plan.

- 36) The throughput capacity of the development hereby permitted shall not exceed 25,000 tonnes per year.

Reason: To protect the living conditions of local residents, the character of the surrounding area, and to limit the effects of the increase in travel movements, having regard to Policies SI8 and T4 of The London Plan and Policies Q2 and T1 of the Lambeth Local Plan.

- 37) The development hereby permitted shall ensure noise breakout from the operation within the main structure does not exceed a noise level of $55\text{dB}_{\text{LAeq,1-hour}}$ at the south-west boundary of the site.

Reason: To protect the living conditions of nearby residents, having regard to Policy D14 of the London Plan and Policy Q2 of the Lambeth Local Plan.

END OF SUGGESTED CONDITIONS

Schedule 2 – plans and documents referred to in condition No 2

- 15656-101-WIE-ZZ-XX-DR-C-900100-P05 General Arrangement
- 15656-114-WIE-ZZ-XX-DR-C-900120-P01 Existing Contours
- 15656-114-WIE-ZZ-XX-DR-C-900121-P01 Proposed Contours
- 15656-114-WIE-ZZ-XX-DR-C-900122-P01 Cut Fill
- 15656-114-WIEZZ-XX-DR-C-900125-P01 Cross Section Plan
- 15656-114-WIE-ZZ-XX-DR-C-900126-P01 Cross Sections Sheet 1
- 15656-114-WIE-ZZ-XX-DR-C-900127-P01 Cross Sections Sheet 2
- 15656-114-WIE-ZZ-XX-DR-C-900130- P01 Screenshots
- 15656-WIE-ZZ-XX-DR-L-74001 P02 GA Landscape
- 15656-WIE-ZZ-XX-DR-L-74100 P02 GA Landscape
- 15656-WIE-ZZ-XX-DR-L-74101 P02 GA Trees Retained and Proposed
- 15656-WIE-ZZ-XX-DR-L-74200 P02 Hard Landscape
- 15656-WIE-ZZ-XX-DR-L-74300 P02 Soft Landscape
- B90100-P03-Existing Site Plan
- B90300-P02- Existing Site Sections
- B90301-P02-Existing site section S04
- B91100-P02-Site Location Plan
- T91100-P02-Ground Floor Site Plan
- T91102-P02-Site Roof Plan
- T91300-P02-Proposed Site Sections
- T91400-P02-Site entrance gate elevation & typical boundary
- TA20200-P02- Metal Recycling Shed Proposed Elevations
- TB20100-P02- Office Accommodation Ground & First Floor Plan
- TB20200-P02- Office Accommodation Proposed Elevations
- WG-WBS-ZZ-00-DR-E-63900 External Lighting Strategy

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms H Sargent of Counsel	Instructed by Legal & Governance at The London Borough of Lambeth
She called	
Mr J Holt BRTP	Deputy Head of Strategic Applications, The London Borough of Lambeth

FOR THE APPELLANT:

Mr J Maurici QC & Mr C Bishop of Counsel	Instructed by Ashurst LLP
They called	
Mr M Maclagan	Head of Acoustics, Waterman Infrastructure & Environment Ltd
BSc(Hons) PgDip MIOA	
Mr J Bancroft BSc(Hons)	Director, Vectos (South) Ltd
MSc MBA MIHT	
Mr S Tickle BA(Hons)	Director of Planning, Rolfe Judd Planning
DipTP MRTPI	

INTERESTED PERSONS:

Mr P Gillieron BSc(Hons) MIOA	Director, Gillieron Scott Acoustic Design, for The Community
Mr R Andrew	The Community
Ms H Hayes	Member of Parliament for Dulwich and West Norwood
Councillor M Bennett	Member of the Council for Gipsy Hill Ward
Councillor F Cowell	Member of the Council for Thurlow Park Ward
Councillor J Meldrum	Member of the Council for Knight's Hill Ward
Councillor J Pickard	Member of the Council for Knight's Hill Ward
Miss K Hart	Chair, Norwood Forum
Mr F Bernstein	Local resident

INQUIRY DOCUMENTS

- 16.1 Mr Maurici's & Mr Bishop's opening statement on behalf of the Appellant.
- 16.2 Ms Sargent's opening statement on behalf of the LPA.
- 16.4 Email dated 2 March 2022 from Ashurst LLP to the Planning Inspectorate concerning the plans relating to the appeal proposal.
- 16.5 List of possible conditions. Submitted by Mr Holt.
- 16.6 Mr Andrew's statement on behalf of The Community.
- 16.7 Mr Maclagan's note of clarification to his noise and vibration evidence.
- 16.8 Extract from the London Waste Planning Forum Annual Monitoring Report, July 2018. Submitted by the Appellant.
- 16.9 Mr Bernstein's statement.
- 16.10 Mr Bancroft's powerpoint slides.

- 16.11 Email dated 3 March 2022 from Ms Hayes to The Planning Inspectorate concerning HGV movements.
- 16.12 Email dated 4 March 2022 from Mr Andrew with extract from Vehicle Certification Agency website – Classification of power-driven vehicles and trailers, and part 4 of The COBA 2018 User Manual.
- 16.13 Miss Hart’s statement on behalf of Norwood Forum.
- 16.14.1 Planning permission for 1,152 dwellings, retail, business and community spaces at Ruby Triangle, London.
- 16.14.2 Planning agreement relating to CD16.14.1.
- 16.14.3 Discharge of Schedule 3 clause 6 of CD16.14.2.
- 16.15 Details of Windsor Grove traffic flows. Submitted by Mr Bancroft.
- 16.17 Erratum sheet to Mr Bancroft’s proof of evidence and CD16.3.
- 16.18 Healthy Streets calculator clarification. Submitted by the Appellant.
- 16.19 Mr Bancroft’s response to Mr Bernstein’s statement (CD16.9).
- 16.20 Southwark Metals premises at Trundleys Road, London – site plan.
- 16.21 Site plan for the appeal proposal, overlain with Lambeth Policies Map designations.
- 16.22 Letter dated 7 March 2022 from Network Rail to The Planning Inspectorate concerning the planning agreement.
- 16.23 Old Kent Road Business Network survey. Submitted by Mr Andrew.
- 16.24 Extract from the London Borough of Southwark website concerning the Old Kent Road Business Network. Submitted by Mr Andrew.
- 16.25 Email dated 10 March 2022 from the LPA to The Planning Inspectorate concerning the certificate of lawful use for a car dismantling and disposal depot at the appeal site.
- 16.25.1 Application for a certificate of lawful use for a car dismantling and disposal depot at the appeal site.
- 16.25.2 Validation checklist relating to certificate of lawful at the appeal site (CD16.25.1).
- 16.26 Letter dated 16 March 2022 from Waterman Infrastructure & Environment Ltd to Rolfe Judd concerning the biodiversity net gain assessment in respect of the appeal proposal. Submitted by the Appellant.
- 16.27 Ms Sargent’s closing submissions on behalf of the LPA.
- 16.28 Mr Maurici’s & Mr Bishop’s closing submissions on behalf of the Appellant.
- 16.29 Mr Maurici’s & Mr Bishop’s response to the closing submissions for the LPA.
- 16.30 Notification letter about the inquiry and distribution list.
- 16.31 The Inspector’s note, closing the inquiry.
- 16.32 Regulation 2(4) notice concerning pre-commencement conditions.
- 16.33 The Appellant’s response to the Regulation 2(4) notice (CD16.32).

OTHER DOCUMENTS SUBMITTED AFTER THE INQUIRY OPENED

5.7 Planning agreement relating to the appeal proposal.



Department for Levelling Up, Housing & Communities

www.gov.uk/dluhc

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.