

PLANNING & ENVIRONMENT COMMITTEE MEETING

Monday 20 September 2010 - 7.00PM

ADDENDUM TO REPORT OF ASSISTANT DIRECTOR OF PLANNING AND DEVELOPMENT MANAGEMENT

C/17559/08 Brent Cross Cricklewood

REPRESENTATIONS SUBMITTED ON BEHALF OF BESTWAY

Bestway have submitted further letters raising the issues outlined below and requesting that the committee defer determination of this application principally in relation to the waste issues outline below.

Comment: Responses to the issues raised by Bestway are outlined below and officers consider that there is no reason to defer determination of this application.

UNSPECIFIC “DISAGREEMENT” WITH OFFICER REPORT RE PPS4

Bestway disagree with the report and state that officer’s have misunderstood their concerns but have chosen not to explain why. Bestway indicate that they will raise their unarticulated concerns in a “more appropriate forum”.

The appropriate forum for concerns to be raised is with the body determining whether or not to grant planning permission i.e. with the Planning and Environment Committee. The Committee cannot engage with issues that are not articulated. However, the officers stand by their advice in the main report on this matter for this meeting.

NLWA NO LONGER NEEDS THE GERON WAY SITE FOR A WASTE HANDLING FACILITY

Bestway state that the NLWA have written to a resident stating that their outline business case should provide for the waste treatment facility that should have been provided at Geron Way to be built at Pinkham Way instead with only a need for a waste transfer facility (to rail) at Geron Way. A letter dated 19 September from Contour Planning has been circulated to councillors.

Comment: This letter misrepresents the NLWA position. The Managing Director of NLWA has confirmed that an amendment will be sent to the local resident which states:

Section 7.2.1 of the Authority’s OBC sets out the site strategy included in the reference project, including details for the Hendon site. The OBC states:

‘The Authority has also identified a new Hendon site for the relocation of the existing Hendon RTS and bulking facilities should the Brent Cross Cricklewood*

(BXC) regeneration proposals be implemented. Development of the facility will be dependent on a successful CPO to acquire the part of the site (Bestway Cash & Carry) that is not in the ownership of CRL. The remainder of the site is in the ownership of CRL. The Authority has been in discussions with CRL and is confident that a negotiated agreement for occupation on the basis of a long lease would be readily agreed. The new Hendon site is identified for a 100,000 tpa MRF to support the Authority's proposals. ...'

* Rail transfer station

** Materials recovery facility

You will note that this confirms the Authority's interest in the site. So that there is no further misunderstanding this essentially means that if the BXC proposals are delivered the Authority will be operating the new Hendon site in a manner which is within the parameters and principles that will be incorporated into the BXC outline planning permission (or any permission appropriately amending the outline permission in light of the Authority's procurement process).

(A copy of this letter is attached to this Addendum)

IN ADDITION THE NLWA HAVE WRITTEN TO OFFICERS (LETTER TO NICOLA CAPELLI DATED 20 SEPTEMBER ATTACHED TO THIS ADDENDUM REPORT) CONFIRMING THAT THE HENDON SITE IS REQUIRED TO DELIVER WASTE MANAGEMENT FACILITIES FOR NORTH LONDON AND RESPONDING TO OTHER ISSUES RAISED BY CONTOUR PLANNING.

London Plan Policy 4A.24 safeguards all existing waste management sites. It requires the re-provision of waste management facilities where these are affected by development. In order to comply with that policy the development is required to make provisions for them.

If a development removed existing waste management facilities but did not propose re-provision it would be contrary to 4A.24. It would be open to a developer to argue that there is no need for facilities into the future and that this absence of need outweighs that policy conflict.

Here the developer does propose to re-provide the existing waste manage capacity. As such the scheme is compliant with policy 4A.24. There is then no policy requirement to consider whether the re-provision is needed or not.

Even if there were no need for the re-provision of waste management facilities, the inclusion of them within the development would not render that development contrary to policy.

NLWA HAVE CAST DOUBT THAT THE EXISTING HENDON WTS WILL BE LOST TO DEVELOPMENT

The conditions and the planning agreement make it clear that the existing Hendon Waste Transfer Station will not be caused to cease operating as a result of the BXC scheme unless and until the new WHF is ready and able to operate. There is a clear

recognition of the need to reach agreement with NLWA in relation to the delivery of the WHF in accordance with the planning permission sought. .

INAPPROPRIATE RELIANCE ON THE NORTH LONDON WASTE PLAN

The planning rationale for the location for the WHF was set out in detail in the Second Addendum report. The rationale is not based upon the draft NLWP. Rather that Plan is a matter to which the Council has had regard giving it the weight that it merits given the stage it has reached in the adoption process.

LBB has already concluded that the proposed WHF accords with the Development Plan. No substantial planning objections have been identified (by reference to alternative sites) which would suggest that the proposed WHF should not be permitted in accordance with the relevant development plan policies. Therefore there is no requirement in either law or policy upon LBB to have regard to alternative sites. There is then no basis for deferring the decision.

ALTERNATIVE WASTE SITE SELECTION COMMISSIONED BY BESTWAY

Alternative sites for development are only exceptionally relevant in planning. They can be relevant where substantial planning objection exists to the proposed development which are sought to be overcome by reference to arguments that the development is in the public interest.

As the report and Second Addendum made clear, the officers consider that the BXC proposal (including the WHF) is in accordance with the relevant policies in the Development Plan generally and taken as a whole.

In the present situation, in relation to the Waste Handling Facility as an important element in the BXC proposals, the officers do not consider that the ongoing Bestway alternative sites review provides a reason either for refusing permission in this case or in deferring the determination of the application

REPRESENTATIONS SUBMITTED BY THE FEDERATION OF RESIDENTS ASSOCIATIONS IN BARNET

A further letter has been received from the FORAB. This letter raises many of the issues considered in full in the November and July reports to the Planning and Environment Committee.

RETAIL CONSIDERATIONS

The letter comments on the need for a new and extended shopping centre at Brent Cross, suggests that the council has relied on the developers assessment of the need for new retail floorspace, suggests that new shopping centres at White City and Westfield and the growth of internet shopping make such a retail expansion unnecessary and suggests that the impact on surrounding shopping centres has not been considered.

Comment: These issues have all been comprehensively considered in previous reports to Committee in November and July and in the main report tonight (page 27 - 31). Officers confirm that all these issues have been considered and that the

proposed development is in accordance with an up to date development plan. The Council has taken account of independent retail advice in assessing the application and the report to the 29 July Committee considered the implications of more up to date growth rates and concluded that any changes were not significant to the overall conclusions.

TRANSPORT ISSUES

a. Why is the council ignoring the impact of 29,000 extra cars a day coming to the site?

As reported at the November 2009 meeting the figure of 29,000 extra vehicles came from the Development Framework, and included West Hendon. The BXC Transport Assessment and Supplementary Reports are much more recent and contains much more detailed modelling work. Based on this it is predicted that there will be less than 10,000 more car trips generated by the development. This was discussed and confirmed by the highways officer at the November 2009 meeting.

b. What evidence do the officers have that leads them to believe that 70% of all current Brent Cross users plus 70% of all future users will leave their cars at home and travel to the centre by bus?

The end-state mode split in the Framework Travel Plan for bus is 28%, an increase from 18% during phase 1. The modelled mode splits for the scheme are close to the 70% mentioned above but these include increases in the numbers of people using rail and tube, particularly in relation to the later phases when the new train station is open. The proposed conditions and planning obligations including the matrix and transport reports schedule provides strong controls to ensure that the scheme does achieve the predicted mode splits, including the requirement for supplementary transport measures if the mode shift levels are not being met as the phases proceed.

c. Do you as Councillors with knowledge of your electorate honestly believe this will happen?

d. Do you believe that the Edgware branch of the Northern line will be able to cope with tens of 000s of shoppers for Brent Cross, 20,000 occupiers of the new hutches for hobbits at Brent Cross, 30,000 new residents at Colindale plus c 20,000 for other new residents up the rest of the Northern Line every day?

The multi-modal modelling undertaken in support of the Transport Assessment and Supplementary Reports incorporated other planned developments in the area, and also included the upgrade by TfL of the Northern Line and the Council's officers and those of TfL were satisfied that the Transport Assessment was robust in this regard. There is nothing in Mr Howard's letter that cast any doubt on this aspect of the technical assessment.

e. Why are the officers refusing to safeguard the route for a possible future light rail/rapid transit system?

This matter was fully addressed in the November committee report (Page 86 of Appendix 4).

OTHER ISSUES INCLUDING BRENT, NATIONAL AND REGIONAL PLANNING POLICY, DELIVERY OF THE DEVELOPMENT

FORAB suggest that the objections of Brent have been ignored and that officers have misled Councillors in respect to recent changes in legislation. FORAB raise issues concerning the phased delivery of the application and financial guarantees.

Comment: All objections from Brent have been previously reported to Committee and all relevant changes in legislation have been also been drawn to members attention. It should be noted that Brent will be a full member of the Transport Advisory Group.

The proposed planning conditions and the draft S106 agreement will, in addition to the specific elements referred to by FORAB in this question (m) also be required to deliver:

- critical infrastructure including the strategic gateway junctions into the site, the new Templehof bridge and the primary and secondary highways in Phase 1, all of which will be covered by statutory highway agreements and bonds.
- Commit to the 'exemplar' expansion and improvement of Claremont Primary School.
- Subject to feasibility the infrastructure for renewable energy generation in accordance with the proposed phasing programme or in accordance with an alternative energy permission
- The Phase 1 improvements to Clitterhouse Playing Fields.

Officers consider that it is unlikely that the developers will build only Phase 1 (FORAB n) because the investment in Phase 1 infrastructure will provide the capacity required for subsequent phases. Phase 1 represents a substantial investment in the comprehensive regeneration of the site and in the unlikely event that the developers decide not to carry out some or all of the subsequent phases, the Council will have the ability to engage with other developers to continue the regeneration of the area on the basis of Phase 1 and possibly other Phases undertaken by the BXC developers. Under the conditions the Council has reasonable control of the phasing and delivery of the scheme.

In the context of the planning permission and related S106 agreement the officers and the Council's advisors consider that there will be substantial security for the delivery of the highways and bridges under the bonds attached to the statutory agreements which must be in place before the relevant phases commence. By that time, the developers must have assembled the land in the relevant phase so as to bind all interests to the relevant planning obligations. (FORAB o).

CCHP/POLLUTION

Have councillors seen evidence that 'air leaving the 140 metre high chimney will be cleaner than the air entering the plant'?

Comment: This matter is dealt with in the EIA process and was raised by objectors at the November Committee. This point raises no new information which causes the officers to doubt the environmental information already considered by the Committee in terms of the conclusions of the earlier report on these matters or the mitigation measures and other requirements contained in the draft conditions and draft S106 agreement.

FORAB suggest that there are no examples of successful pollution free heat from waste plants.

Comment: Again this question contains no information and raises no issues which were not raised by objectors previously and the officers do not consider there are reasons in relation to this issue which should change their earlier recommendation.

REPRESENTATIONS SUBMITTED BY A RESIDENT OF BRENT

A letter has been received from a resident of Brent raising issues in relation to the A5 corridor study, the funding of any mitigation in Brent and the consultation rights of Brent residents.

1) What happens if the on-going consultation with the London Borough of Brent (called the "A5 Corridor Study") reports that NO (feasible) amount of mitigation is possible on Brent's roads?

The officers believe that this situation will not arise and are reasonably confident that an acceptable position will be achievable under the A5 Corridor Study. It should be noted that the mitigation may not be restricted to traffic management measures and as an example could include additional bus services to help ensure traffic impacts are mitigated through new and / or diverted bus services including increasing capacity on existing routes. Under the Planning Conditions, the development can only proceed if the A5 Corridor Study is approved by the LPA in consultation with TfL and other key stakeholders including the London Borough of Brent.

(2) How can any mitigation be definitely funded, given the lack of understanding or agreement, as yet, of what it might amount to?

The developer will be obliged to fully fund and deliver directly any supplementary mitigation measures that are identified, agreed and approved by the authorities as part of the A5 Corridor Study. The applicant is a reputable and well resourced developer with experience of delivering major regeneration projects across the UK. It has already committed large scale resources in promoting this application and it is unlikely that it would have done so if it did not have the confidence that it could deliver the necessary supplementary transport measures under the A5 Corridor Study. However, the public protection is fully achieved by a Condition which prevents the commencement of development in any phase until the necessary measures are secured.

(2) What are the statutory rights of Brent residents, regarding lawful consultation over mitigation measures affecting them, if in reality those measures have already been decided, because of prior approval of the whole planning application by the London Borough of Barnet?

As noted above the A5 Corridor Study will be considered in full consultation with LB Brent, which will have responsibility as highway authority for any such measures within their boundary. The development in any phase will not start unless those measures are secured by the necessary consents prior to commencement

20 September 2010

Ms Nicola Capelli
Major Developments Manager
Planning, Housing and Regeneration
London Borough of Barnet
North London Business Park
Oakleigh Road South
London N11 1NP

Dear Nicola

Further to your email dated 20 September regarding the proposed use of the Geron Way site identified for waste in the outline Brent Cross Cricklewood application, I wish to confirm the following:

The Authority believes that the Hendon site is required to deliver waste management facilities for north London and has therefore:

- included the Geron Way site in its OBC site strategy, note it is referenced as Hendon (new).
- incorporated the site in the OBC reference project which envisages that the Hendon (new) site will be utilised as a materials recovery facility (MRF) and a rail transfer station (RTS).
- included the Hendon (new) site in the procurement documents that have been issued to waste services contract bidders.

It is correct that a site at Pinkham Way has also been identified in the OBC and offered to bidders as a part of the waste services contract procurement. This site has been identified for a mechanical biological treatment facility.

In response to the other points raised in the Contour Planning Services letter dated 17 September:

- Page 2 para 2 - The quoted NLWA letter was a response to a FoI request. The Authority has issued an amendment to the FoI letter in respect of the paragraph that is quoted. I have attached a copy of the amendment for your information.
- Page 2 para 3 - The Authority currently operates a rail transfer station (RTS) for the movement of waste. The new facility included in the BXC outline planning application is required to replace the RTS facility so that the Authority retains a RTS capability. The new site is also expected to provide a MRF. The Authority understands that the waste handling facility included in the outline application makes provision for these uses.

- Page 2 paras 4-6 - The quoted NLWA letter was seeking to provide context on the use of the existing rail transfer station site. The Authority has previously agreed that it will relocate its facility as a part of the BXC development, subject to a suitable alternative site being provided. Previous correspondence has identified that the Hendon (new) site is considered to be a suitable alternative.

I would be grateful if you would provide an update following the committee meeting.

Yours sincerely



David Beadle
Managing Director

20th September 2010

Dear Mr Cox,

ENVIRONMENTAL INFORMATION REGULATIONS (EIR) 2004

The Authority has noted the 'Potential Waste Facilities' section its letter to you (dated 6 September 2010) is misleading and I would like to take the opportunity to clarify the information that has been provided. I apologise for this and have set out below an amendment to my previous letter.

Geron Way – Overview

Section 7.2.1 of the Authority's Outline Business Case (OBC) sets out the site strategy included in the reference project, including details for the Hendon site. The OBC states:

'The Authority has also identified a new Hendon site for the relocation of the existing Hendon RTS and bulking facilities should the Brent Cross Cricklewood (BXC) regeneration proposals be implemented. Development of the facility will be dependent on a successful CPO to acquire the part of the site (Bestway Cash & Carry) that is not in the ownership of CRL. The remainder of the site is in the ownership of CRL. The Authority has been in discussions with CRL and is confident that a negotiated agreement for occupation on the basis of a long lease would be readily agreed. The new Hendon site is identified for a 100,000 tpa MRF** to support the Authority's proposals.*

* Rail Transfer Station

** Materials Recovery Facility

You will note that this confirms the Authority's interest in the site. So that there is no further misunderstanding this essentially means that if the BXC proposals are delivered the Authority will be operating the new Hendon site in a manner which is within the parameters and principles that will be incorporated into the BXC outline planning permission (or any permission appropriately amending the outline permission in light of the Authority's procurement process).

I refer you to the caveats set out at page 5 of my previous letter regarding copyright.

Yours sincerely,


Andrew Lappage
Head of Waste Services and Contracts