

**LOCATION:** Brent Cross Cricklewood Regeneration Area  
North West London

**REFERENCE:** 19/2070/CON                      **Received:** 8<sup>th</sup> April 2019  
**Accepted:** 12<sup>th</sup> April 2019

**WARD:** Golders Green                      **Expiry:** 7<sup>th</sup> June 2019

**APPLICANT:** BXS Limited Partnership

**PROPOSAL:** Submission pursuant to Conditions 4.2 (Re-phasing) and 4.4 (Indicative Construction Programme) of Planning Permission F/04687/13 dated 23 July 2014 for the comprehensive mixed use redevelopment of the Brent Cross Cricklewood regeneration area, to re-phase items of Critical Infrastructure to create two new sub-phases within Phase 1A (North): 'Phase 1A (North) (Infrastructure 1)' to contain A407 Cricklewood Lane/Claremont Road Junction Improvements, A5/A407 Cricklewood Lane Junction Improvements, Claremont Road Junction with Tilling Road and, the Whitefield Estate Replacement Units (Part 1); and, 'Phase 1A (North) (Infrastructure 2)' containing the balance of remaining Critical Infrastructure of Phase 1A (North). This submission also updates the Indicative Construction Programme to re-sequence the northern and southern development in Phase 1.

**RECOMMENDATION:**

That delegated powers be given to the Brent Cross Planning and Transport Manager to APPROVE the Conditions Application subject to the completion of a satisfactory Deed of Variation to make the necessary amendments to the existing Section 106 Agreement dated 22<sup>nd</sup> July 2014 attached to planning permission F/04687/13, to secure the following:

- 1) Amendments to clauses and definitions to reflect the updated phasing of the development and to accord with amendments to conditions and definitions of planning permission F/04687/13 approved under separate applications pursuant to section 96A;

## **APPLICATION SUMMARY**

The application is part of a suite of submissions to enable elements of Brent Cross South (BXS) and Brent Cross Thameslink (BXT) to proceed in advance of the commencement of the first phase of Brent Cross North (BXN).

The application is made pursuant to Conditions 4.2 and 4.4 of the section 73 planning permission for the Brent Cross Cricklewood Regeneration (planning permission reference F/04687/13) (the 'S73 Permission'). These two conditions provide the S73 Permission with a degree of flexibility to the approved phasing and delivery sequence, the content of each Phase or Sub-Phase and the creation of new Sub-phases, subject to an assessment of resulting environmental impacts which must be considered against the existing S73 Environmental Statement as well as any potential impacts upon the comprehensive delivery of the Brent Cross Cricklewood Regeneration Scheme (BXC).

Condition 4.2 allows for amendments to be made to the indicative phasing of the approved BXC development. Condition 4.4 allows for updates to be made to the Indicative Construction Programme (ICP). The submission therefore seeks to alter the delivery sequence of development and infrastructure within Phase 1 and part of Phase 2 of the BXC scheme. It does not propose any change to the nature, type, quantum or scale of development approved under the S73 Permission.

The original S73 Permission was assessed and approved with necessary mitigation measures secured via conditions and legal obligations. In particular, all elements of Phase 1 now have detailed consent which has entailed additional detailed assessment and analysis in both environmental and transport terms.

As currently structured in the S73 planning permission, the southern elements of the regeneration, BXS and BXT, cannot commence until the Northern Developer has commenced Phase 1A (North). Both BXT and BXS have made significant steps towards delivery of development, however, due to well documented uncertainty in the retail sector the Northern Developer, Hammerson Aberdeen Standard Investments (HASI), has deferred a start on Phase 1BN (and thereby Phase 1AN). It is therefore necessary to re-sequence the early consented elements of BXC to allow development within BXS and BXT to commence ahead of BXN and thereby realise the benefits of the regeneration. It will also ensure that the new Thameslink station and associated infrastructure being delivered by the Council with Government grant can continue to be delivered in line with the programme to achieve the station opening date of May 2022. The submission to update the ICP reflects this adjusted sequence of delivery.

An Environmental Statement of Compliance has been submitted in support of the application to demonstrate that the re-phasing of these items of infrastructure and the update to the ICP is unlikely to result in any new or different significant environmental effects from those reported in the s73 Permission Environmental Statement.

The amendments to phasing do not change the triggers for the delivery of the infrastructure and contributions as set out in the conditions of the S73 Permission and secured in the associated Section 106 agreement (s106).

In addition, the application will not result in any increases, decreases, deletions or alterations in the approved parameters, including the number of items or plots approved as part of the existing s73 Permission. Likewise, the current application does not seek to change any of the designs approved by previous Reserved Matters Applications (RMAs) or Other Matters Applications (OMAs).

The re-phasing sought under condition 4.2 seeks the sub-division of Phase 1A (North). Phase 1A (North) includes key Infrastructure required for delivery of the Northern development, including the Brent Cross Shopping Centre (Phase 1B (North)), it also includes items which support the delivery of development within Brent Cross South to the south of the A406.

Two new phases will be created: Phase 1A (North) (Infrastructure 1); and Phase 1A (North) (Infrastructure 2).

Phase 1A (North) (Infrastructure 1) would include the following Infrastructure items:

- A407 Cricklewood Lane/ Claremont Road Junction Improvements;
- A5/A407 Cricklewood Lane Junction Improvements; and
- Claremont Road Junction with Tilling Road.

It will also include the residential development of plots 53 and 54 on the Brent Terrace Triangles which will provide the Whitefield Estate Replacement Units (Part 1).

Phase 1A (North) (Infrastructure 2) will retain the majority of Phase 1A (North) Infrastructure.

The ICP sets out the indicative sequencing and duration of the delivery of Critical Infrastructure and Plot Development. It is a high level indicative delivery programme for a large and complex development, and the S73 Permission incorporates the flexibility to change the ICP from time to time as required to respond to Phase changes and changes in the delivery of the development.

The updated ICP reflects a long-stop date for commencement of Phase 1A (North) (Infrastructure 2) and Phase 1B (North) of May 2024. This date would be fixed as a result of a Unilateral Undertaking associated with a separate non-material amendment application associated with the commencement of 1B (North) (application reference 19/2068/NMA). It also reflects the current programme for the construction of the Thameslink Station which is planned to open in 2022.

A number of consequential changes will be required to definitions and conditions within the S73 Permission decision notice to reflect the updates to Phasing and the ICP. A separate non-material amendment application under Section 96A has been submitted alongside minor definition changes submitted against condition 1.30 of the s73 Permission to make the necessary changes. In addition, a draft Deed of Variation has been submitted to ensure that the updated definitions are captured in the s106 agreement attached to the S73 Permission.

It is considered that, as set out in the requirements of Conditions 4.2 and 4.4 the application has demonstrated:

1. That the proposed re-phasing of the items and plots, subject of this application, do not give rise to any significant adverse environmental effects in accordance with the assumptions that underpinned the S73 Permission Environmental Statement; and,
2. That the proposed sub-division of infrastructure to allow Phase 1 (South) to commence prior to Phase 1B (North) would continue to positively assist in achieving the planning benefits of the comprehensive development of the BXC regeneration.

Therefore, it is recommended that the application to re-phase the infrastructure items and plots, within Phase 1 and the associated update to the ICP is approved subject to the satisfactory completion of a Deed of Variation to the section 106 Legal Agreement to reflect the consequential amendments to conditions and definitions.

## 1.0 BACKGROUND AND DELIVERY OF THE REGENERATION

### 1.1 Outline Planning Consent

This application relates to the delivery of the Brent Cross Cricklewood ('BXC') regeneration scheme.

The BXC regeneration was first established as a Supplementary Planning Guidance (SPG) in 2004, in accordance with the London Plan at the time. The comprehensive redevelopment of the wider BXC regeneration area was granted outline planning permission in 2010 (with planning reference C/17559/08) and was subsequently amended via a Section 73 planning application (with planning reference F/04687/13) which was approved on 23 July 2014 (the 'S73 Permission'). The description of the S73 Permission is as follows:

*"Section 73 Planning application to develop land without complying with the conditions attached to Planning permission Ref C/17559/08, granted on 28 October 2010 ('the 2010 permission'), for development as described below: Comprehensive mixed use redevelopment of the Brent Cross Cricklewood Regeneration Area comprising residential uses (Use Class C2, C3 and student/special needs/sheltered housing), a full range of town centre uses including Use Classes A1 - A5, offices, industrial and other business uses within Use Classes B1 - B8, leisure uses, rail based freight facilities, waste handling facility and treatment technology, petrol filling station, hotel and conference facilities, community, health and education facilities, private hospital, open space and public realm, landscaping and recreation facilities, new rail and bus stations, vehicular and pedestrian bridges, underground and multi-storey parking, works to the River Brent and Clitterhouse Stream and associated infrastructure, demolition and alterations of existing building structures, CHP/CCHP, relocated electricity substation, free standing or building mounted wind turbines, alterations to existing railway including Cricklewood railway track and station and Brent Cross London Underground station, creation of new strategic accesses and internal road layout, at grade or underground conveyor from waste handling facility to CHP/CCHP, infrastructure and associated facilities together with any required temporary works or structures and associated utilities/services required by the Development (Outline Application)."*

### 3.2 Phasing of the BXC Regeneration Scheme

The S73 Permission divides the BXC Development into 7 phases. Phase 1 is further split into five sub-phases, namely Phase 1A (North); Phase 1A (South); Phase 1B (North); Phase 1B (South); and Phase 1C.

**Phase 1A (North)** - this includes all highways infrastructure to support the northern development and key highways infrastructure to support Phase 1 South. Phase 1A (North) falls under eight Reserved Matters Applications (RMAs). Subsequent to these RMA approvals, six items of infrastructure have been re-phased to Phase 1B (South).

**Phase 1A (South)** - this comprises three highway links to support Phase 1 of the Southern Development. Two of these roads have been re-phased and Phase 1A (South) is now comprised solely of Claremont Park Road (Part 1).

**Phase 1B (North)** - this includes all of the plot development on the north side with the exception of the residential development within the Brent Cross West Zone. The sub phase also includes the replacement bus station, reconfigured shopping centre, extension to the shopping centre, hotel and leisure uses, northern pedestrian routes, the Riverside Park, Sturgess Park improvements and residential uses.

**Phase 1B (South)** - this includes the Market Square, Clarefield Park Temporary Replacement Open Space and residential Plot 12, RMA approval for which has been granted providing 292 units including the Whitefield Estate Replacement Units (Part 2). Phase 1B (South) in addition comprises other development/infrastructure, as follows:

- Claremont Park;
- Clitterhouse Playing Fields (Part 1);
- Claremont Avenue;
- Claremont Road Junction North;
- High Street South (East Works); and
- Orchard Lane

**Phase 1C** - this includes the remaining plot development within the southern development area of Phase 1 (South) comprising Plots 11 and 13 which will provide 700 residential units along with retail, community and leisure uses on the ground floor in line with the Market Quarter land use allocations.

Reserved matters have been approved for all of the above infrastructure and plot development within Phase 1.

The new Thameslink Station is within a sub-phase of Phase 2. A number of drop-in planning applications have been approved for the infrastructure components and development required to deliver the new train station as follows:

- Rail Freight Facility (reference 17/5761/EIA) – approved on 6<sup>th</sup> July 2018;
- Replacement Waste Transfer Station (reference 17/6714/EIA) – approved on 30<sup>th</sup> October 2018;
- Sidings Compound Facility for train drivers and presentation staff (reference 18/5647/EIA) – approved on 14<sup>th</sup> December 2018; and
- New South Sidings and MML Track Realignment Work to serve the forthcoming new Train Station (reference 18/5647/EIA) – approved on 14<sup>th</sup> December 2018 subject to conditions.

## Previous Condition 4.2 Re-Phasing Applications

Four Re-Phasing applications pursuant to Condition 4.2 have been approved to date under the S73 Permission.

The re-phasing of plots 53 and 54 from Phase 1 (South) to Phase 1 (North) approved in February 2015 (reference F/05552/14);

The re-phasing of 6 items of infrastructure from Phase 1A (North) to Phase 1B (South) approved in February 2017 (reference 16/7489/CON);

The re-phasing of infrastructure items and development plots within and between phases: 1A (South), 1B (South), 1C and 2 (South) to consolidate Phase 1 (South) into deliverable package approved in October 2017 (reference 17/2694/CON); and

The re-phasing of a number of development plots and items of Critical Infrastructure from Phase 1A (South), Phase 1B (South), Phase 1C, Phase 2 (South), Phase 4 and Phase 5 to create two new sub-phases within Phase 2 (South) to enable the delivery of the new Thameslink Station and associated infrastructure development earlier in the regeneration.

### **3.3 Delivery of the Regeneration**

For the purposes of delivery, the BXC development is divided into three elements:

- **Brent Cross North** (BXN) – land north and south of the A406, being developed by BXC Development Partners, Hammerson Aberdeen Standard Investments;
- **Brent Cross South** (BXS) – land south of the A406, being developed by the Council and its delivery partner Argent Related (BXS LP); and
- **Brent Cross Thameslink** (BXT) – land adjacent to the Midland Mainline, including a new Thameslink Railway Station, being delivered by the Council in partnership with Network Rail.

Phase 1A (North) and Phase 1B (North) form part of BXN and Phase 1A (South), Phase 1B (South) and Phase 1C form part of BXS. BXT is within Phase 2 (South) (Thameslink Station).

#### Progress to date

Within BXN Reserved Matters have been granted for the whole of Phase 1A (North) which includes highways infrastructure improvements, works to the River Brent and the Whitefield Estate Replacement Units (Part 1). The Whitefield Estate Replacement Units (Part 1) will deliver 47 replacement homes on Plots 53 and 54 which are located to the south of the A406. Reserved Matters Approval for Phase 1B (North) has also been granted which provides for development around Brent Cross Shopping Centre to include the Replacement Brent Cross Bus Station, a new hotel, a new energy centre, provision for the Eastern and Western Brent Riverside Park and improvements to Sturgess Park. Relevant site-wide strategies have been approved through pre-

reserved matters conditions and a number of pre-commencement conditions have also been discharged.

In March 2015, the Council appointed Argent Related as its delivery partner for BXS and formed a joint venture, BXS LP in 2016. Since then BXS LP have secured Reserved Matters and drop-in approvals for all of the infrastructure and development within Phase 1 (South) which includes the development of Plot 12 which will deliver 110 residential units as the Whitefield Estate Replacement Units (Part 2), Plot 11 and Plot 13 which together will deliver just under 1,000 homes. There are also consents in place for associated highways infrastructure and improvements to both Claremont Park and Clitterhouse Playing Fields and detailed designs for the Temporary Open Space have also been approved. Together these plots and infrastructure will deliver the beginning of a new town centre. The first demolitions within the Claremont Industrial Estate are scheduled to begin this summer with main works associated with the temporary open space and first plot in early 2020. The first residential completions are expected in late 2021/2022.

In relation to BXT, the Council has secured Government Grant funding to deliver the new Thameslink station and associated infrastructure. Drop-in planning permissions have been approved for the Rail Freight Facility (RFF), Waste Transfer Station (WTS), the replacement Sidings Train Operating Companies (TOC) Compound and associated rail systems works. The Council has appointed contractors to deliver the Sidings, rail systems work and TOC Compound and construction work started in early 2019 and is progressing well. The TOC compound will be completed this Summer and the new Sidings will be commissioned in Spring 2020. The Council is currently selecting a contractor later this year for the construction of the new train station, overbridge and platforms and a reserved matters application for the station is expected to be submitted in July. The new station is planned to be completed in 2022. The RFF is being delivered by DB Cargo who will operate the new freight facility and is expected to be operational by the end of the year.

Therefore, since the grant of the S73 Permission, significant progress has been made towards the delivery of the BXC development with approval for detailed design secured for the whole of Phase 1.

### Compulsory Purchase Orders

The Council has sought to compulsorily purchase land within the BXC regeneration area to facilitate delivery of the regeneration scheme. The London Borough of Barnet Compulsory Purchase Orders No.1 and No.2 were made by the London Borough of Barnet (LBB) in 2015 to acquire land for the Northern development and the first phases of the Southern development. A Public Inquiry took place in summer 2016 and both Orders were confirmed by the Secretary of State in December 2017 and a High Court Challenge was dismissed in July 2018.

Compulsory Purchase Order No.3 was made by the London Borough of Barnet in September 2016 to acquire land at the western extent of the Brent Cross Cricklewood regeneration area to facilitate delivery of the New Train Station and associated infrastructure within the Railway Lands development zone. A public inquiry took place in September 2017 and the Order was confirmed in full on 15<sup>th</sup> May 2018.



## **4. DESCRIPTION OF SITE AND PROPOSALS**

### **4.1 Site description and Surroundings**

The Brent Cross Cricklewood (BXC) regeneration area is a 151 hectare development site. On the western side, the site is bounded by the Edgware Road (A5) and the Midland Mainline railway line; and to the eastern side by Hendon Way road (A41). The North Circular road (A406) which runs in an east west direction across the site separates the Northern and Southern development areas.

The Northern development area located north of the A406 consists of the existing Brent Cross Shopping Centre (BXSC) which is identified in the London Plan 2016 as a Strategic Regional Shopping Centre, Bus Station and existing Sturgess Park and will continue to be delivered by Hammerson and Standard Life. Brent Cross London Underground Station is situated to the east of this Brent Cross East (BXE) development.

The Southern development area to the south of the A406 is comprised of some large footprint retail, Hendon Leisure Centre, the Whitefield estate (of approximately 220 units), parks and open spaces, Whitefield Secondary School, Mapledown Special School and Claremont Primary School and Claremont Way Industrial Estate.

The Templehof Bridge and the A41 flyover provide the only existing direct north-south links within the site which run across the A406 North Circular Road, and the River Brent which flows east to west and is located adjacent and south of the existing Shopping Centre.

The site is surrounded to the north, east and south by traditional low rise suburban development, predominantly two storey semi-detached houses. Cricklewood Railway Station located to the west of the BXC site, lies on the Midland Mainline railway line which runs between London St. Pancras and the north of England. Brent Cross Underground Station, served by the Edgware branch of the Northern line, lies to the eastern boundary of the regeneration area. The existing Brent Cross Bus Station provides access to 18 bus routes (including Green Line).

### **4.2 Description of Proposals**

The application comprises a submission pursuant to Conditions 4.2 (Re-phasing) and a submission pursuant to Condition 4.4 (Indicative Construction Programme) of Section 73 Planning Permission F/04687/13 for the comprehensive mixed use redevelopment of the Brent Cross Cricklewood regeneration area.

The application is part of a suite of submissions to enable elements of Brent Cross South (BXS) and Brent Cross Thameslink (BXT) to proceed in advance of the first phase of Brent Cross North (BXN). The submissions seek to alter the delivery sequence of development and infrastructure within Phase 1 and part of Phase 2 of the BXC scheme. They do not propose any change to the nature, type, quantum or

scale of development approved under the S73 Permission.

#### Condition 4.2 - Re-phasing

Pursuant to Condition 4.2 of the S73 Permission the application seeks permission to re-phase infrastructure to create two new sub-phases within Phase 1A (North) to enable the necessary infrastructure to be delivered to allow Phase 1 (South) to commence ahead of Phase 1B (North).

Condition 4.2 provides the ability for changes to be made to the phasing of the s.73 Permission subject to confirmation that the changes:

- a) do not have any significant adverse environmental effects; and
- b) do not undermine comprehensive redevelopment.

Condition 4.2 reads as follows:

*“The Indicative Phasing Parameter Plan and/or Phase 1A(North) Phase 1A (South), Phase 1B (North), Phase 1B (South) and Phase 1C may be amended from time to time to reflect changes to the phasing of the development on written application and subject to obtaining the prior written approval of the LPA in respect of the definition of (a) any amendment to the Phases shown on Parameter Plan 029 or any subsequently approved Phasing Parameter Plan or (b) any part of a Phase as an approved Sub-Phase, but provided always that such approval to an amended Phase or Sub-Phase shall not be given unless and until any such proposed amendments or changes or the definition of any Sub-Phases shall have been demonstrated to be unlikely to*

*4.2.1. have significant adverse environmental effects compared to the assessments contained in the EIA Process unless and to the extent that such changes are validly approved by the LPA after they have been assessed by a subsequent new or revised Environmental Statement and an appropriate EIA process; and/or*

*4.2.2. significantly undermine comprehensive delivery of the mixed use town centre development in accordance with Saved Policy C1 of the LPA’s UDP 2006.*

*And Provided that any application for approval of any amendments or changes under this Condition shall (in accordance with Clause 14 of the S106 Agreement) clearly specify any consequential changes to (a) the Critical Infrastructure to be delivered as part of such Phase or (as the case may be) Sub-Phase and/or (b) the payments to be made to the LPA for the purposes of the Consolidated Transport Fund under the CTF Schedule in respect of such Phase or (as the case may be) Sub-Phase and (c) the relevant Phase Details to be approved pursuant to the detailed requirements for pre-commencement approvals in accordance with Conditions 13.1, 14.1, 15.1, 16.1, 17.1, 18.1, 19.1 and Conditions 20,21, 22, 23, 24, 25, and 26.*

*PROVIDED FURTHER THAT any proposed change to reassign Plots 53 and 54 from Phase 1 (South) to Phase 1 (North) and/or other appropriate phase changes to facilitate delivery of the Whitefield Estate Replacement Units (Part 1) and/or*

*Plot 113 from Phase 1 (North) to Phase 1 (South) may be submitted and approved in accordance with this Condition in advance of submission and approval of the A5 Corridor Study and/or any other applications for Other Matters Approvals.*

*Reason: To ensure the orderly and satisfactory development of the Site in accordance with the assumptions which underpinned the EIA Process, in the interests of highway safety and to assist in achieving the planning benefits of the comprehensive development scheme, whilst allowing sufficient flexibility to enable the development to be delivered in a manner which accords with the EIA process.”*

Phase 1A (North) is proposed to be sub-divided two create two new sub-phases: Phase 1A (North) (Infrastructure 1); and Phase 1A (North) (Infrastructure 2).

Phase 1A (North) (Infrastructure 1) would include the following Infrastructure items:

- A407 Cricklewood Lane/ Claremont Road Junction Improvements;
- A5/A407 Cricklewood Lane Junction Improvements; and
- Claremont Road Junction with Tilling Road.

It will also include the residential development of plots 53 and 54 on the Brent Terrace Triangles which will provide the Whitefield Estate Replacement Units (Part 1).

Phase 1A (North) (Infrastructure 2) will retain the majority of Phase 1A (North) Infrastructure as follows:

- A406 Brent Cross Ingress/Egress Junction Improvements
- A41/A406 Junction Improvements
- M1/A406 and A5/A406 Junction Improvements
- Tempelhof Avenue and Tempelhof Link Road
- Tilling Road West Re-alignment and Improvement Works (Part 1)
- Brent Cross Pedestrian Underpass Works
- Prince Charles Drive Diversion
- Eastern River Brent Alteration & Diversion Works
- Western River Brent Alteration & Diversion Works
- Central River Brent Alteration & Diversion Works
- Bridge Structure B1 (Replacement A406 Tempelhof Bridge)
- Bridge Structure B7 (Living Bridge)
- River Brent Bridges (as relevant to the Eastern River Brent Alteration and Diversion Works)
- River Brent Bridges (as relevant to the Central River Brent Alteration and Diversion Works)
- River Brent Bridges (as relevant to the Western River Brent Alteration and Diversion Works)
- Central Brent Riverside Park including River Brent Nature Park (NP5)

#### Condition 4.4 Indicative Construction Programme

Pursuant to Condition 4.4, the application also updates the Indicative Construction Programme to reflect the re-sequencing of the northern and southern development in Phase 1 to allow Phase 1 (South) to commence ahead of the shopping centre development in Phase 1B (North).

The updated ICP presents a construction programme in which Phase 1A (North) (Infrastructure 1) Critical Infrastructure commences in advance of the commencement of Phase 1 (South) and Phase 2 (Thameslink). Phase 1A (North) (Infrastructure 2) development and Phase 1B (North) are illustrated as commencing after the commencement of Phase 1 (South) and Phase 2 (Thameslink). An anticipated start date is given for Phase 1A (North) (Infrastructure 2) and Phase 1B (North) no later than May 2024 (consistent with obligations attached to the Phase 1BN Implementation NMA submitted by the BXC Development Partners).

Amendments to the ICP also provide an up to date timeframe for the expected construction programme for the delivery of the Thameslink Station as well as considering the timescale for the delivery of later Phases.

Condition 4.4 of the S73 Permission states:

*“The Indicative Construction Programme may be amended from time to time, and shall be amended (if and as far as required and appropriate) to support any application for (a) approval of any amendment to the Phasing Parameter Plan in accordance with Condition 4.2 or (b) any approval of (or any amendment to) the Primary Development Delivery Programme and/or the Detailed Delivery (Non-PDP) Programme in accordance Conditions 5.1 to 5.4.*

*Such amendments to the Indicative Construction Programme shall be made only with the prior written approval of the LPA and provided that such approval shall be given only if and to the extent that any proposed changes are demonstrated to be unlikely to:*

- a) have significant adverse environmental impacts compared to the assessments contained in the EIA Process on which this Permission has been granted or any relevant subsequent EIA Process in relation to a relevant Reserved Matters Approval or Other Matters Approval under this Permission (or in relation to any relevant Additional Planning Permission or Alternative Energy Permission or Further Section 73 Permission), except if and to the extent that these will be acceptably addressed by any specific alternative mitigation measures that have been approved by the LPA in accordance with Condition 3.2 and following (if appropriate) a new EIA in support of such application for approval under this Condition]; and*
- b) significantly undermine comprehensive development in accordance with Saved Policy C1 of the LPA’s UDP 2006.*

*Reason: To ensure the orderly and satisfactory development of the site in accordance with the EIA Process, to assist in achieving the planning benefits of*

*the scheme and to ensure comprehensive development on both sides of the A406 in accordance with Saved UDP Policy C1.”*

In summary, Condition 4.4 provides the ability for amendments to be made to the ICP subject to confirmation that the changes:

- a) Do not have any significant adverse environmental effects compared to those assessed in the existing EIA information for the Brent Cross Cricklewood Regeneration Area development; and
- b) Do not undermine the comprehensive redevelopment of the Brent Cross Cricklewood Regeneration Area.

### **4.3 Associated Applications**

The positive determination of this planning application would result in a number of consequential changes to the S73 Decision Notice and accompanying s106 Agreement.

The following applications have been submitted to facilitate the consequential amendments:

#### Submission pursuant to Condition 1.30

Minor revisions to existing definitions within the Glossary are required to reflect the introduction of the two new sub-phases within Phase 1A (North). A letter seeking written agreement of the LPA to those changes has been submitted in accordance with Condition 1.30 of the S73 Permission which enables minor revisions to the definitions within the Glossary to be agreed in writing with the Council.

#### Application under S96A to make consequential non-material amendments

The proposed re-phasing will require a series of consequential non-material amendments to be made to the planning conditions attached to the S73 Permission, as well as introducing new definitions into the glossary.

The primary amendments to the conditions of the S73 Permission relate to updating those conditions which refer to Phases 1A (North) to ensure they refer to either Phase 1A (North) (Infrastructure 1) and/or Phase 1A (North) (Infrastructure 2) as relevant and necessary. These consequential amendments are proposed to ensure that the commencement of BXS and BXT are not dependent upon the prior commencement of Phase 1A (North) (Infrastructure 2).

The re-phasing application also results in a need for new definitions to be inserted into the glossary of the S73 Permission decision notice to ensure relevant terminology in respect of Phase 1A (North) (Infrastructure 1) and Phase 1A (North) (Infrastructure 2) are suitably defined.

A number of other non-material amendments are also proposed under the S96A application to make amendments of clarification; to amend the trigger for the Tilling

Road West Rea-alignment works to accord with other triggers; and to amend the approach to the approval process for Critical Infrastructure (Pre-Phase). These changes do not relate directly to this re-phasing application.

#### Application under S96A related to implementation of Phase 1B (North)

In conjunction with the re-phasing application and associated applications and deed of variation to secure consequential amendments to the conditions and s106 agreement, the BXC Development Partners (Hammerson Aberdeen Standard Investments) have prepared and submitted a separate application under Section 96A to enable Phase 1B (North) to be implemented by carrying out a specified material operation, without the discharge of all pre-commencement requirements herein referred to as the “Phase 1B (North) Implementation Application”.

The Phase 1B (North) Implementation Application proposes that all pre-commencement requirements would need to be complied with and works to begin the remaining elements of Phase 1B (North) would be required to take place in advance of a longstop date of 10th May 2024. This long-stop timeframe for Phase 1B (North) has informed and is consistent with development programme assumptions used by the Re-Phasing Submissions.

#### **4.4 Supporting Documentation**

The following documents have been submitted in support of the application:

- Cover Letter;
- Explanatory Report (April 2019) prepared by DP9 Ltd;
- Supplemental Environmental Statement (April 2019) prepared by Arup;
- Transport Report (April 2019) prepared by Arup;
- Updated Indicative Construction Programme (Version 2.2 March 2019);

A draft Section 106 Agreement Deed of Variation has also been prepared which has been agreed with the development partners.

#### Explanatory Report

The Explanatory Report provides the applicant’s assessment of the key material considerations for condition 4.2 and 4.4 to reflect the resequencing of the northern and southern development within Phase 1. The report has been prepared to also cover and explain the necessary consequential amendments in relation to the following separate submissions:

- A submission pursuant to Condition 1.30 (Ref: 19/2067/BXE) for amendments to existing glossary terms to reflect the re-phasing and resequencing under consideration within this application; and,
- A s.96A application (Ref: 19/2065/NMA) for amendments to planning conditions and definitions in the S73 Permission decision notice to reflect the re-phasing and re-sequencing of Phase 1 and to enable commencement of development without a commitment to deliver Infrastructure within the amended Phase 1A

(North) (Infrastructure 2) associated with the delivery of Phase 1B (North). The Explanatory Report includes a draft updated version of the S73 Permission decision notice for information.

### Supplemental Environmental Statement

The Supplemental Environmental Statement (SES) provides the main evidence base for the assessment of any changes to environmental impacts when compared to those identified within the existing Environmental Statement for the S73 Permission, including any updates submitted with applications since the approval of the S73 Permission.

The SES assesses the updated ICP submitted under condition 4.4. The updated ICP reflects the re-phasing changes proposed through condition 4.2 as well as the consequential s96a amendments which would allow commencement of southern development phases following commencement of the newly created Sub-Phase Phase 1A (North) (Infrastructure 1).

The Environmental Statement approved with the S73 permission and subsequent updates (s73 ES) provides a qualitative assessment of resulting impacts at three intermediate 'snapshots' between the commencement and completion of the BXC development programme. These interim snapshots were taken to reflect peaks of construction activity whilst considering operational activity as it developed.

In order to draw a comparison between the environmental impacts of the s73 ES and the SES reflecting the updated ICP a similar qualitative assessment has to be undertaken for those.

### Transport Report

A Transport Report has been submitted as supporting information only and has been undertaken by the applicant as a separate exercise to determine whether the proposed split of infrastructure items to be re-phased into the new Phase 1A (north) (Infrastructure 1) sub-phase, would be sufficient to accommodate the development of Phase 1 (South). This is not a material consideration in the determination of the proposed phasing adjustments and update to the ICP in relation to the tests of Condition 4.2 and 4.4.

## **5. MATERIAL CONSIDERATIONS**

### **5.1 Relevant Planning Policy**

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that development proposals shall be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the Development Plan comprises the London Plan at the strategic level and, at the local level, Barnet's Local Plan – this consists of the Core Strategy DPD (2012), Development Management Policies DPD (2012) and the saved policies of the Barnet Unitary Development Plan (2006). The Development Management Policies DPD (2012) states at paragraph 1.4.3 that it will not apply to planning applications for comprehensive development in the Brent Cross regeneration area unless and until the Core Strategy is reviewed in accordance with Policy CS2 and Section 20:13 of the Core Strategy.

The NPPF (2019) promotes a 'presumption in favour of sustainable development' (paragraphs 10-14) and for decision-taking, this presumption requires the approval of applications which are considered to accord with the Development Plan. Of particular relevance to this application, paragraphs 178-179 of the NPPF states that planning decisions should ensure that (a) a site is suitable for its proposed use taking account of the ground conditions and any risks arising from (inter alia) contamination; (b) after any remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act; and (c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

### **5.2 Public Consultation Responses**

It should be noted that this application has been made pursuant to a planning condition attached to the S73 Permission and as such there is no statutory requirement for the application to be subject to public consultation. However, given the proposals include the re-sequencing of delivery of the development within Phase 1 including development associated with the expansion of the Brent Cross Shopping Centre which was previously going to be delivered first, Officers considered it appropriate, in this instance to consult on the application.

A public consultation was undertaken with letters sent to 1889 addresses in the vicinity of the Brent Cross regeneration area. Additionally, 5 Site notices were erected in across the regeneration area.

A single letter of objection was received. The letter does not raise any points in relation to the re-phasing proposals or the update to the ICP. The letter primarily relates to previous objections to the overall regeneration scheme as a whole and in particular objections raised against CPO1 and CPO2 at the time of the public enquiry in 2016 and afterwards in 2017. The points raised are summarised below:

- The application would adversely impact upon the residents of the Whitefield Estate who would be disadvantaged by the application under the terms of the



Resident Relocation Strategy and the arrangements proposed for replacement homes within the new development;

- Acknowledgement that the CPOs have been confirmed and that focus of residents has been on trying to reach positive agreement on vesting of properties back to the Council;
- Council has been trying to acquire the properties of residents and reach an agreement on an individual basis albeit with little or no transparency on the matter;
- Request to know the number of sales and option agreements which have been achieved over leaseholders and freeholders properties at the Whitefield Estate from CPO1 and CPO2 area to date and the latest offers (including compensations) that have been made to individual leaseholders and freeholders;
- Suggestion that residents have been required to sign non disclosure agreements as a condition to receiving offers on their properties. Signing an NDA means that there could be great disparity in the offers being made to individual leaseholders;
- Suggestion that the high and unreasonable costs of recent major work charges in the 3 tower blocks within Whitefield Estate amounting to over £6,000 in the last year will have put leaseholders under a lot of pressure to settle for any revised offers made to them or risk facing bankruptcy should they insist on remaining on the estate;
- Objector would like the offer of an option agreement without the need to have a survey carried out of their individual property in order to receive an improved offer from the Council;
- Reference to arguments and proposals put forward in evidence submitted in objection to CPO1 and CPO2 to exclude the Whitefield Estate from demolition. Still remains the objector's preferred position;
- Comments on secured and assured tenancies;
- Suggests that evidence submitted in objection to CPOs 1, 2 and 3 should be considered along with the collective submission made by residents of the Whitefield Estate in May 2017 when considering the determination of the application.
- Comments of why they don't agree with shared equity offer for existing leaseholders when they didn't agree to move in the first place;
- Do not wish to pursue the option of a replacement home in the new development, but would like to be compensated sufficiently to enable them to purchase a like-for-like 2 bedroom flat in the locality. A suggested reference is made to apartments in the Fairview Homes development on Cricklewood Lane for a 2 bed flat with a similar internal area of 65 square metre costing around £500,000. Request for an offer by the end of the week in the form of an option agreement without the necessity of signing an NDA;
- Query why leaseholders have not been given the option to buy a home in the new development off plan;

- Issues relating to deregulation due to the privatization of housing compromising building safety, the scope of jobs available, the prevalence of high end stores and the decline of economy stores, high cost renting or perpetual debt arising from mortgage arrangements particularly affecting the future generation should they seek to own their own home, tax exemption or reduction, are some of the likely impact of the Scheme;
- Analysis by business leads such as the CBI confirm that the UK economy will be negatively impacted as a result of brexit. As a consequence, the trade deals that will be forged leading to Schemes such as the BXC development could result in substantial wealth inequality, enslavement of the masses and the UK becoming a vassal state.

Officer comment:

*Comments relating to property valuations, acquisitions and negotiations with existing leaseholders are not relevant planning matters. Outline planning consent has been granted for the regeneration including for the redevelopment of the Whitefield Estate. A Resident Relocation Strategy has been approved by the Council which sets out the arrangements for the relocation of residents in the Whitefield Estate. Evidence relating to Compulsory Purchase Order 1 and 2 was assessed and considered by an independent Planning Inspector at a public inquiry. The Orders were subsequently confirmed by the Secretary of State. The proposed adjustments to the phasing of infrastructure in Phase 1A (North) will enable the replacement homes for the residents of the Whitefield Estate to be delivered at the very beginning of the regeneration.*

### **5.3 Consultation Responses from Statutory Consultees and Other Bodies**

External Consultees

**Transport for London**

TfL does not object to the Council approving this application.

Amendments are sought to the Deed of Variation of the s106 agreement specifically identifying Bus Subsidy contributions to the sum of £950,000 from the existing contribution of £2,000,000 triggered by commencement of Phase 1B (south) Construction Transport Fund.

Officer Comment

*TfL are a signatory to the s106 agreement and are currently engaged in discussions with the Council's Lawyers (Gowling WLG) over minor drafting issues including the alteration of the Consolidated Transport Fund to specifically identify a sum of £950,000 for bus subsidy from £2,000,000 contribution in Phase 1B (south) currently identified as a general Transport Contingency Fund. The existing s106 agreement allows flexibility of this contribution subject to agreement between the LPA and TfL. In the absence of Bus Subsidy contributions associated with the commencement of Phase 1B (north) being met ahead of the commencement of Phase 1 (south) the specification of this contribution is fixed at this time.*

## Internal Consultees

### **LBB Transport and Regeneration:**

LBB Transport officers acknowledge that the re-phasing submission and update to the ICP seek to adjust the sequence of delivery of already approved infrastructure and development within Phase 1 which has previously been assessed and approved using the relevant traffic models for the scheme. The application does not change the quantum, scale or the mix of uses of the development consented by the S73 Permission or the infrastructure and amount of development approved within Phase 1.

Although not required to meet the tests of Condition 4.2 in relation to environmental effects and comprehensive development, the applicants have submitted a Transport Report with this application as supporting information. This has been undertaken by the Applicant as a separate exercise to determine whether the proposed split of infrastructure items to be re-phased into the new Phase 1A (north) (Infrastructure 1) sub-phase, would be sufficient to accommodate the development of Phase 1 (South). This is not a material consideration in the determination of the proposed phasing adjustments and update to the ICP. There has been extensive dialogue between LBB Transport Officers and the Developer in relation to the modelling associated with the wider development. Officers have raised a number of comments on the outputs from the modelling. It is noted that the Transport Report is not sought for approval as part of this application.

For the purposes of the two tests within Conditions 4.2 and 4.4 in relation to environmental impacts and comprehensive development against which this re-phasing application and update to the ICP is being considered, it has not been considered necessary to pursue further interrogation of the output of the detailed traffic modelling evidence within the Transport Report, in recognition that this will be addressed in subsequent Phase Transport Reports which are required to be submitted prior to each phase. The phase transport report process requires the Developer to undertake traffic modelling using the strategic model for the development, along with appropriate local modelling of relevant junctions, to assess whether sufficient mitigation is in place to accommodate the development within that phase. The Phase Transport Report must account for development and infrastructure already approved in the previous phase(s) and therefore provides a cumulative assessment of the development as it is progressed.

On the basis that the key assessment for determining re-phasing applications pursuant to Condition 4.2 and updates to the ICP pursuant to Condition 4.4 is whether the changes would give rise to any new or different significant adverse environmental effects compared to those previously assessed, officers have no objections to the application being approved on the above basis.

### **LBB Environmental Health:**

The Proposed re-phasing and re-sequencing is not objected to given the context of the conditions attached to the s73 Approval in relation to both Noise and Air Quality which will have to be submitted prior to commencement of construction and which will ensure the acceptability of these impacts for both existing and new receptors.

## **6. PLANNING APPRAISAL**

### **6.1 Need for amendments to phasing and delivery sequence**

The UK is currently in a period of economic uncertainty. In particular, since Reserved Matters were approved in 2017 for Phase 1B (North) relating to the expansion of Brent Cross Shopping Centre, the UK retail market has been experiencing significant structural and conceptual changes, with the closure and consolidation of major national stores and brands and the continuing competition from on-line retail.

In July 2018 the BXC Development Partners announced that they would be deferring the start on site for Phase 1B (North) due to this current uncertainty within the retail market and economic climate.

Notwithstanding this retail market shift, evidence indicates that the larger, more dominant centres will continue to be the focus for activity for consumers and tenants, with consumers looking for a stronger 'experience' as part of their visit.

Brent Cross Shopping Centre has an established and important role within the overall hierarchy of centres in North West London. It predominantly provides a high order comparison goods destination for local residents and those coming from a wider catchment area. It is a location recognised to already attract a large number of shopping trips and is accessible by public transport, predominantly buses. It was partly for these reasons that the London Plan identified BXC as an appropriate location for additional comparison goods retail and other main town centre uses to support a new Metropolitan town centre designation and address the identified 'gap' in the retail hierarchy of north west London. As a result, notwithstanding the difficult current economic conditions, Brent Cross will continue to represent an appropriate location to focus retail and related activities, and will continue to be attractive to both customers and tenants.

The BXC Development Partners have stated that they are committed to delivering Phase 1B (North) and to realising the public benefits this will bring, but require a sufficiently flexible timeframe within which to achieve this given current uncertainties. As such, the BXC Development Partners are proposing – as part of the Phase 1B (North) Implementation Application (mentioned at section 4.3 above) – a revised longstop date for Phase 1B (North) of May 2024. BXC Development Partners consider this to allow a sufficient period of time to assess market conditions, address the issues faced by the retail market and to discharge the extensive pre-commencement conditions before Phase 1B (North) can be delivered.

The delivery of housing, jobs and the associated regeneration within BXS remains a key priority for the Council and for London. This is reflected in the Government's decision to commit grant funding to enable the delivery of the new Thameslink Station which will support and help accelerate the delivery of new housing. The station provides a fundamental component to the integrated transport strategy to enable and accommodate the BXC development proposals to come forward and encourage mode shift to public transport as part of the comprehensive development. Notwithstanding the new long-stop timing for Phase 1B (North), BXS LP intends to continue with its

proposed development of BXS. Subject to approval of this proposed re-phasing and re-sequencing application, preparatory works are scheduled to begin shortly in respect of utility disconnections and demolitions within the area for the first phases of BXS, with main works on BXS scheduled to commence in late 2019/early 2020 and the first residential completions expected in 2021/2022. Therefore, the phasing and delivery sequence adjustments required to the planning S73 Permission would ensure that there is no consequential delay in the delivery of BXS.

The Council has secured Grant funding from Government to deliver the new Thameslink Station and associated infrastructure. It has entered into an Implementation Agreement contract with Network Rail for the construction of new sidings and rail systems to undertake works to the operational railway. The council has also commenced an OJEU procurement to secure a contractor to install the station platforms and station access pedestrian bridge in order to maintain a 2022 opening date for the station to coincide with the completion of the first development plots within BXS. Work is now underway on the rail sidings and rail systems and waste transfer station components. The works to deliver the new station have been programmed and agreed with Network Rail, including secured rail possessions. The station works are due to continue notwithstanding the position on BXN, to the benefit of comprehensive development and regeneration of BXC.

The intended development programme is such that BXS and BXT are, subject to discharge of relevant pre-commencement conditions, ready to proceed with works under the S73 Permission. However, it is necessary to adjust the phasing and delivery sequence within the S73 Permission in order to enable this to happen. The principal consideration has been identifying the infrastructure required to support the initial parts of BXS development along with BXT likely to come forward ahead of the northern phases. This has been informed by transport modelling work conducted by ARUP.

### Original Development Sequence

Phase 1A (North) is the first Sub-Phase of the BXC development and is required to begin prior to all other phases. At the time the S73 Permission Phase 1A (North) originally included all of the associated highways infrastructure improvements required to support the development of BXN (comprising primarily the expansion of Brent Cross Shopping Centre), certain public open space improvements within BXS, and certain new roads and junctions south of the A406 which are to support the delivery of the first development plots of BXS. It is for this reason that the S73 Permission requires Phase 1A (North) to commence prior to other phases. The S106 agreement then requires the Developers to use reasonable endeavours to complete the whole Sub-Phase once they have started. In addition, prior to commencing a Phase or Sub-Phase all RMAs, pre-RMA and pre-commencement conditions and all Necessary Consents for the whole Phase or Sub-Phase are required to be in place.

Phase 1A (North) as originally established contained infrastructure that is key to BXS, including improvements to Claremont Park and Clitterhouse Playing Fields, as well as new roads and junctions within the Market Quarter Development Zone intended to support the delivery of the first development plots within BXS.

Following the establishment of the joint venture between the Council and Argent Related (BXS LP) and the move to distinct delivery projects within BXC (BXN, BXS and BXT) highways infrastructure to the south of the A406 along with the improvements to Claremont Park and Clitterhouse Playing Fields (which were originally envisaged to be constructed by the BXC Development Partners as part of Phase 1A (North)) were re-phased to Phase 1B (South). This was to ensure that BXS LP would be able to control the detailed design and delivery of these items to ensure a more holistic approach to BXS. This was achieved via a re-phasing application (Ref: 16/7849/CON) approved in 2017.

As a result, much of the new infrastructure intended to be provided early in connection with the development of BXS is already within Phase 1B (South). However, the controls in the S73 Permission restrict commencement of any sub-phases within Phase 1 (South) until Phase 1A (North) is commenced. It is therefore necessary to make adjustments to the phasing of infrastructure within Phase 1A (North) so that those items required to support development in Phase 1 (South) can be commenced and delivered separately to and in advance of the remaining infrastructure which is required to support Phase 1B (North).

Consequential amendments to the S73 Permission are also required, which are being pursued via applications pursuant to Condition 1.30 and under S96A to recognise the new sub-phases and ensure that the commencement of BXS and BXT would not trigger the need to address pre-commencement requirements or delivery obligation in relation to unrelated infrastructure.

#### Proposed amended delivery sequence

The application proposes to split Phase 1A (North) into two further sub-phases, which together comprise the totality of Phase 1A (North). These new Sub-Phases are Phase 1A (North) (Infrastructure 1) and Phase 1A (North) (Infrastructure 2).

Phase 1A (North) (Infrastructure 1) will contain the infrastructure required to support the early phases of BXS anticipated to come forward in advance of 2024 (i.e. in advance of the assumed delivery of Phase 1B (North)). Phase 1A (North) (Infrastructure 2) will contain the remaining infrastructure which is required for the development in Phase 1B (North).

The applicants have undertaken an assessment of the highways junction improvements currently within Phase 1A (North) which are required to be delivered to support the early plots within Phase 1 (South). This assessment identified that the following items of highway infrastructure are required to facilitate the delivery of development in Phase 1 (South):

- A407 Cricklewood Lane/ Claremont Road Junction Improvements;
- A5/A407 Cricklewood Lane Junction Improvements; and
- Claremont Road Junction with Tilling Road.

In addition to the above highway infrastructure, the Whitefield Estate Replacement Units (Part 1) are proposed to be delivered early to re-house the residents of the

Whitefield Estate Existing Units (Part 1). It is appropriate that the replacement homes for this part of the Whitefield Estate are still delivered early in the development programme to support the delivery of BXS. These works are being funded by the Government Grant.

The content of the proposed new sub-phases within Phase 1A (North) is set out within the table below.

<b>PHASE 1A (North)</b>	
<b>Phase 1A (North) (Infrastructure 1)</b>	<b>Phase 1A (North) (Infrastructure 2)</b>
<ul style="list-style-type: none"> <li>• A407 Cricklewood Lane/Claremont Road Junction Improvements</li> <li>• A5/A407 Cricklewood Lane Junction Improvements - Claremont Road Junction with Tilling Road</li> <li>• Whitefield Estate Replacement Units (Part 1) (Plots 53 and 54)</li> </ul>	<ul style="list-style-type: none"> <li>• A406 Brent Cross Ingress/Egress Junction Improvements</li> <li>• A41/A406 Junction Improvements</li> <li>• M1/A406 and A5/A406 Junction Improvements</li> <li>• Tempelhof Avenue and Tempelhof Link Road</li> <li>• Tilling Road West Re-alignment and Improvement Works (Part 1)</li> <li>• Brent Cross Pedestrian Underpass Works</li> <li>• Prince Charles Drive Diversion</li> <li>• Eastern River Brent Alteration &amp; Diversion Works</li> <li>• Western River Brent Alteration &amp; Diversion Works</li> <li>• Central River Brent Alteration &amp; Diversion Works</li> <li>• Bridge Structure B1 (Replacement A406 Tempelhof Bridge)</li> <li>• Bridge Structure B7 (Living Bridge)</li> <li>• River Brent Bridges (as relevant to the Eastern River Brent Alteration and Diversion Works)</li> <li>• River Brent Bridges (as relevant to the Central River Brent Alteration and Diversion Works)</li> <li>• River Brent Bridges (as relevant to the Western River Brent Alteration and Diversion Works)</li> <li>• Central Brent Riverside Park including River Brent NP (NP5)</li> </ul>

In summary, Phase 1A (North) (Infrastructure 1) must be commenced first and prior to all other phases. This will allow the development identified within BXS and BXT to commence irrespective of progress on Phase 1B (North). Phase 1A (North) (Infrastructure 2) must still be commenced prior to Phase 1B (North) beginning. In essence the changes will allow the new station, rail and waste facilities and circa 1,000 homes (including all of the Whitefield Replacement homes) within BXS together with two enhanced parks (Claremont Park and Clitterhouse Playing Fields) and a temporary open space to be built. The latter elements equate to a 'sub-set' of the original approved Phase 1 and are proposed to be supported by an appropriate 'sub-set' of the approved highway infrastructure within Phase 1AN.

The S73 Permission includes various triggers controlling the delivery of that infrastructure (Conditions 20 and 21). The re-phasing submission does not change or alter the nature, quantum or scale of development comprising the S73 Permission. The proposal only relates to a re-sequencing of development and infrastructure already approved within Phase 1 to allow specific junctions necessary to support Phase 1 (South) and BXT to be delivered while ensuring that the infrastructure which is only attributed to the shopping centre development is still required to be commenced prior to the commencement of Phase 1B (North). A 'sub-set' of the original approved Phase 1 development is effectively being supported by an appropriate 'sub-set' of the already approved highway infrastructure within Phase 1AN.

## **6.2 Assessment of Environmental Effects resulting from Condition 4.2 (Phasing) and 4.4 (ICP) Submissions**

An informal scoping approach was undertaken during pre-application discussions including engagement with the LPA and Environmental Health to establish the environmental impacts that were likely to result from the rephrasing and resequencing proposals. These were limited to impacts of:

- Transport;
- Air Quality; and,
- Noise

The SES is based on the updated ICP submitted under condition 4.4. The updated ICP reflects the phasing changes proposed through condition 4.2 as well as the consequential s96a amendments which would allow commencement of southern development phases following commencement of the newly created Sub-Phase Phase 1A (North) (Infrastructure 1). The SES therefore appraises the effect of both the 4.2 (Re-phasing) and 4.4 (ICP) changes and whether they together are likely to give rise to any significant adverse environmental effects when compared with the s73 ES.

The s73 ES is based upon a largely qualitative assessment of the environmental effects which would result from construction and operational activities at three intermediate snapshots between the commencement and completion of the BXC development programme.

A number of Intermediate Snapshots were evaluated in the s73 ES:



- **First Intermediate Snapshot (Q3 2020)** – This was taken to represent the peak in construction activity during Phase 1 coinciding with the peak in construction of Phase 1B (North).
- **Second Intermediate Snapshot (Q2 2023)** – Considered a completed and operational Phase 1, with other phases under construction; and
- **Third Intermediate Snapshot (Q4 2029)** – Evaluated the maximum build out of BXN and BXS completed prior to the opening of the new Thameslink Station.

An end state evaluation was also undertaken, however the current re-phasing and resequencing application does not alter the content or timing of the end of the development meaning that environmental impacts would remain equal.

The current ICP assumes that development is commenced by Phase 1A (north) and 1B (north). These sub-phases include significant infrastructure improvements and the approved extension to the Brent Cross shopping centre.

As a result of the re-phasing and re-sequencing applications Phase 1A (North) (Infrastructure 1) would be the initial development to commence in Q3 2019 with Phase 1 (south) beginning in Q4 2019. The Phase 1A (North) (Infrastructure 2) works, including the majority of infrastructure within Phase 1A (north) would be re-sequenced along with the Phase 1B (north) Shopping Centre Extension to commence in Q2 2024.

The comparative delay to Phase 1A (north) (Infrastructure 2) and Phase 1B (north) would result in an overlap of the main construction activity period of the development with southern development in phases 2 and 3. This would have the effect of delaying the peak construction period from Q3 2020 in the approved ICP to Q3 2026 in the amended ICP.

Considering the above changes, the following snapshots have been established as appropriate Interim scenarios within the SES (the 'SES Snapshots'):

**Pre-Phase 1A (North) (Infrastructure 2) (Q3 2020):** This represents the peak in construction activity prior to the implementation of Phase 1A (North) (Infrastructure 2) with its associated highway improvements. This revised snapshot reflects the construction of Phase 1 (South) alongside Phase 2 (Thameslink Station) prior to the implementation of Phase 1A (North) (Infrastructure 2). Operational traffic at this revised snapshot is restricted to the Waste Handling Facility and the Rail Freight Facility both of which would also have been operational by Q3 2020 under the Current ICP.

The following summary of development under construction or operational reflects this SES Snapshot:

- BXT station – under construction;
- Phase 1 Plots 12, 13, 53 and 54– under construction;
- Phase 1A (North) (Infrastructure 1) – under construction;
- Waste handling facility – Operational; and,
- Rail Freight Facility - Operational

**Peak Construction Activity (Q3 2026):** This represents the likely overall peak in construction activity. It would consider the peak of construction associated with Phase 1A (North) (Infrastructure 2) and Phase 1B (North) along with works associated with southern development plots under delivery. Operational activity from completed development plots and the effect of the delivery of Phase 2 (Thameslink Station) would also impact upon the road network.

The following summary of construction and operational 'activities' reflects this SES Snapshot:

- BXT station – operational;
- Phase 1 (South) – operational;
- The majority of Phase 1A (North) (including Infrastructure 1 and Infrastructure 2 packages) – operational;
- Other plots within Phases 2 & 3 – completed and under construction.
- Phase 1B (North) – under construction (peak).

### **Transport environmental assessment**

The SES Snapshots have been used to compare any changes in environmental impacts for the following potential transport related environmental impacts resulting from changes to the development sequence for the approved ICP and the amended ICP:

- Severance;
- Delay (both Private car and Bus Journeys);
- Pedestrian and Cyclist Delay;
- Amenity, Fear and Intimidation; and,
- Accidents and Safety.

The 2020 SES Snapshot includes construction traffic only given the lack of additional operational plots at this time in the development programme.

Construction activity in the 2020 SES Snapshot would be significantly lower than construction activity at the same point in time under the approved ICP. This was previously identified as the overall peak in construction activity, coinciding with the peak in construction of Phase 1B (North). Impacts resulting from this Intermediate Snapshot are addressed through qualitative assessment and reflect the reduction in activity.

The 2026 Snapshot includes both construction and operational traffic with the assessment considering the combined traffic flow. The SES has assessed this scenario without background growth to test the most robust case for any potential impacts. (The percentage differences in traffic flow are be greater when considered without background traffic growth thereby presenting a worst case scenario for assessment).

Severance (difficulty in crossing due to traffic flow)

### Q3 2020 Snapshot

There is a reduction in traffic flow (including HGVs) associated with the construction flows of the amended ICP at Q3 2020. Construction vehicles would be routed to remain on the strategic network, with vehicle access taken via Brent Terrace North from A406 North Circular and Tilling Road.

The scale of existing traffic on the strategic network is significant and therefore the magnitude of impact on severance on the strategic network is negligible. As they are local roads, Tilling Road and Brent Terrace North have an inherently lower demand.

Tilling Road has limited footway provision and both Tilling Road and Brent Terrace North have little pedestrian demand and desire lines and therefore the magnitude of impact on severance on Tilling Road and Brent Terrace North is also negligible.

### Q3 2026 Snapshot

This evaluation of severance impacts in respect of this Q3 2026 snapshot is subject to a Quantitative review.

Table 6 shows that the growth in total vehicle flow (% HGV column) is less than 30% on all roads and the growth in HGVs is less than 30% on the majority of roads.

The increase in HGVs on Claremont Road, while greater than 30% increase compared to the approved ICP at Q3 2020, is less than 100 vehicles a day (circa 10 per hour) and the overall proportion of HGVs remains less than 2% of total vehicle volume. No construction HGVs will be routed via Claremont Road: the increase is a result of operational traffic from the development plots which have been completed

The magnitude of impact of the amended ICP on severance is considered negligible on all roads. The effect of the net change in activity between the approved ICP Q3 2020 snapshot and the amended ICP Q3 2026 revised snapshot reflects the increase in operational plots at this later time in the development programme. The Impact on severance would be temporary, short-term and negligible.

### Driver and bus delay

#### Q3 2020 Snapshot

The traffic flow reduces under the amended ICP at Q3 2020 but these changes are not anticipated to significantly affect junction or network operation and therefore the magnitude of impact on driver and bus delay is negligible.

The effect of the net change in activity between the approved ICP Q3 2020 snapshot and the amended ICP Q3 2020 revised snapshot on driver and bus delay would be temporary, short-term and negligible.

#### Q3 2026 Snapshot

The traffic flow increases at Q3 2026 of the amended ICP compared to Q3 2020 of the approved ICP. However, these increases are addressed through the implementation of Phase 1A (North) (Infrastructure 1) and Phase 1A (North) (Infrastructure 2) which will increase network capacity and mitigation measures set out within Section 4.5. As such, traffic flows is not anticipated to significantly affect junction or network operation. The magnitude of impact on driver and bus delay is therefore negligible.

The effect of the net change in activity between the approved ICP Q3 2020 snapshot and the amended ICP Q3 2026 revised snapshot on driver and bus delay would be temporary, short-term and negligible.

### Pedestrian and Cyclist Delay

#### Q3 2020 Snapshot

Temporary works and vehicular flow associated with plots under construction would be managed to minimise delay for pedestrians and cyclists. Plot design once operational, and their associated construction management strategies while under construction, would seek to maintain and reflect pedestrian desire lines where possible. The magnitude of impact on pedestrian and cyclist delay is therefore negligible.

The effect of the net change in activity between the approved ICP Q3 2020 snapshot and the amended ICP Q3 2020 revised snapshot on pedestrian and cyclist would be temporary, short-term and negligible.

#### Q3 2026 Snapshot

Temporary works and vehicular flow associated with plots under construction would continue to be managed to minimise delay for pedestrians and cyclists. Plot design, and their associated CEMPs, will seek to maintain and reflect pedestrian desire lines where possible.

There are no significant changes proposed to the prevailing travel patterns on the existing pedestrian and cycle networks. The magnitude of impact on pedestrian and cyclist delay is therefore negligible.

The effect of the net change in activity between the approved ICP Q3 2020 snapshot and the amended ICP Q3 2026 revised snapshot on pedestrian and cyclist delay would be temporary, short-term and negligible.

### Amenity, Fear and Intimidation

#### Q3 2020 Snapshot

Similarly, temporary works and vehicular flow associated with plots under construction would be managed and plots designed in accordance with secure by design to minimise fear and intimidation and negative effects on amenity for pedestrians and cyclists. The nature of strategic road networks means that the reduction in traffic flow on these routes would not affect amenity, fear or intimidation for pedestrians and

cyclists. The traffic flow on Tilling Road and Brent Terrace North already comprises a significant proportion of HGVs and therefore the daily reduction of 105 HGVs (circa 11 HGVs an hour, over a 10-hour period) is unlikely to be perceptible. The magnitude of impact on amenity, fear and intimidation is therefore negligible for all links.

The effect of the net change in activity between the approved ICP Q3 2020 snapshot and the amended ICP Q3 2020 revised snapshot on amenity, fear and intimidation would be temporary, short-term and negligible.

### Q3 2026 Snapshot

Temporary works and vehicle flow associated with plots under construction would continue to be managed to minimise fear and intimidation and hence amenity for pedestrians and cyclists.

As the BXC masterplan is built out, the emerging public realm enhancements within the masterplan area would create a more attractive place to travel to, from and through. The public realm would include vehicle free connections (e.g. Claremont Avenue) and all plots would be constructed in accordance with secure by design standards as best practice.

The nature of the strategic road network means that there is limited opportunity for reduction of vehicular dominance along these routes. However, schemes such as the pedestrian and cycle links on Tempelhof bridge and the Living Bridge would improve connections across the strategic routes, enabling users to move through the networks without having to interact with the heavy traffic demand on the strategic roads.

The increase in total vehicle flows and HGVs shown in Table 6 is not considered to be perceptible or have a detrimental effect on pedestrian and cyclist levels of amenity or increase fear and intimidation.

The magnitude of impact on amenity, fear and intimidation is therefore negligible. The effect of the net change in activity between the approved ICP Q3 2020 snapshot and the amended ICP Q3 2026 revised snapshot on pedestrian and cyclists' amenity, fear and intimidation would be temporary, short-term and negligible.

### Accidents and Safety

#### Q3 2020 Snapshot

Road safety would be managed and mitigated through the Construction Logistics and Cycle Safety (CLOCS) scheme and use of contractors registered on the Considerate Contractors Scheme. CLOCS brings the construction logistics industry together to improve the management of work related road risk and ensure a road safety culture is embedded across the industry. Participation in CLOCS and Considerate Contractors schemes also reflects Transport for London's (TfL) Vision Zero<sup>4</sup> aspirations for London.

The amended ICP does not change the prevailing travel patterns or form and nature of the highways network compared to the approved ICP and consented BXC scheme. The magnitude of impact on accidents and safety would be negligible.

The effect of the net change in activity between the approved ICP Q3 2020 snapshot and the amended ICP Q3 2020 revised snapshot on accidents and safety would be temporary, short-term and negligible.

The BXC ES intermediate years assessment concludes that all transport effects identified are negligible and there are no significant residual effects following the implementation of mitigation measures secured through the S73 Permission.

### Q3 2026 Snapshot

In the same manner as other construction periods, road safety would be managed and mitigated through the CLOCS scheme and use of contractors registered on the Considerate Contractors Scheme, continuing to reflect TfL's Vision Zero aspirations for London.

No fundamental changes are proposed to the form or nature of the transport networks or prevailing travel patterns as a result of the amended ICP compared to the approved ICP. The plots and highways network would be designed to provide a safe and secure environment with suitable visibility and geometry at junctions and appropriate footways and crossing points on pedestrian desire lines.

The magnitude of impact on accidents and safety is negligible. The amended ICP would continue to have a permanent negligible effect on accidents and safety compared to the approved ICP.

### Mitigation measures

Pedestrian and cycle networks are improved through the detailed reserved matters approvals in keeping with principals established within the Pedestrian and Cycling strategies approvals of the would the development of BXC progresses with each plot seeking to maintain or improve existing facilities. Public transport networks are also inherently improved through measures such as the new Thameslink Station and Brent Cross Bus Station.

The following conditions including management strategies, are secured through the S73 Permission and the S106 Agreement and are therefore considered to form part of the embedded mitigation:

- Construction Transport Management Plan (CTMP) (Condition 12.1 of the S73 Permission);
- Construction Environmental Management Plan (CEMP) (Condition 8.3 and 28.1 of the S73 Permission);
- Code of Construction Practice (Condition 8.1 of the S73 Permission discharged in May 2017);
- Servicing and Delivery Strategies (Condition 1.22 of the S73 Permission and S106);

- Pedestrian & Cycle Strategies (Condition 2.8 of the S73 Permission);
- Individual Travel Plans (Conditions 2.1, 39.3, 39.4 and 39.5 and S106 of the S73 Permission); and
- Construction Worker Travel Plans (Condition 12.2 of the S73 Permission).

### Summary of SES intermediate years effects

The magnitude of impact on the following effects remains negligible and has shown that the amended ICP would have a temporary, short term and negligible effect on traffic impacts under the compared interim scenarios when compared to the approved ICP in respect of:

- Severance;
- Driver and bus delay;
- Pedestrian and cyclist delay;
- Amenity, fear and intimidation; and
- Accidents and safety.

### Conclusion for transport environmental assessment

The assessment has found that the changes in the numbers of vehicles during the highest periods of activity in the development programme were not significantly different to those for the consented scheme and considering the existing mitigation measures within the S73 Permission would not therefore be likely to result in significantly detrimental impacts upon transport when compared with conclusions within the S73 ES.

## **Air Quality**

### Approach to Assessment

The air quality assessment of the intermediate years snapshots within the s73 ES has been undertaken qualitatively. In the absence of quantitative assessment for comparison the applicant has considered current guidance ('Environmental Protection UK/Institute of Air Quality Management, Land-Use Planning & Development Control: Planning for Air Quality, January 2017' (EPUK/IAQM)) to determine an approach to evaluate the likely significant effects which would result from the proposed re-phasing and resequencing proposals on local air quality. In keeping with the EPUK/IAQM guidance a comparison has been undertaken between the two intermediate snapshots (Q3 2020 and Q3 2026) and a 'Do Minimum' Scenario in which the effects of the development would not be considered.

A number of potential aspects of air quality were scoped out as indicated in the table below with the appropriate assessment being restricted to a combination of qualitative and quantitative assessment of air quality effects of construction and operational traffic.

Aspect of Air Quality	Reason for scoping aspect out of SES comparison
Emissions from combustion plant and air quality neutral assessment	<p>The quantity, make and type of combustion plant and final floorspace areas for each development plot (residential, commercial, retail, etc) will not be known until the detailed design of each development plot.</p> <p>Assessment of the air quality impact of combustion plant emissions and assessment of building (combustion plant) and transport emissions against the Greater London Authority (GLA) Air Quality Neutral (AQN) criteria has been undertaken for some of the recently submitted and consented reserved matters applications and will also be carried out for future reserved matters applications when the necessary information becomes available.</p>
Construction dust assessment	<p>The BXC ES classified the Site and BXC as a 'High Risk' site in terms of the potential for construction activities to result in significant effects at sensitive receptors. Under the Re-Phasing Submissions, BXC will remain as 'High Risk' and therefore the BXC ES assessment and mitigation will remain unchanged.</p> <p>A comprehensive dust mitigation programme will be implemented following best practice techniques for the management of dust on Site.</p> <p>The mitigation measures proposed are outlined in the BXC CoCP secured through Condition 8.1 of the S73 Permission. The BXC ES concludes that following implementation of appropriate environmental management controls, the likely residual impacts of demolition and construction dust would be temporary, short-term and local, and would result in slightly adverse impacts at receptors within 100m of the site boundary, and negligible impacts at receptors over 100m from the Site boundary. This conclusion remains valid for the Re-Phasing Submissions.</p> <p>An assessment of construction dust has therefore been scoped out.</p>
Emissions from construction plant and non- road mobile machinery (NRMM)	<p>Emissions from construction plant and NRMM have not been assessed quantitatively as under the outline S73 Permission, details of the construction plant, operating times and durations have not been defined.</p> <p>Further assessment of these emissions has been carried out for recently submitted reserved matters applications and will also be undertaken for future reserved matters applications. In addition, Conditions to the S73 Permission, which include a CoCP and</p>



	measures relating to NRMM, the operation of vehicles and machinery on-site and minimum emission standards will continue to remain valid and be implemented under the Re-Phasing Submissions.
Emissions from rail movements	Emissions from diesel trains at the Cricklewood railway station have previously been assessed in the BXC ES. The assessment concluded that emissions were unlikely to have a significant effect on sensitive receptors. This emission source will remain unchanged under the Re- Phasing Submissions and has not been considered further. There are no changes proposed to the Thameslink station and therefore this assessment remains as per the BXC ES.

A screening assessment has been undertaken using the criteria contained in the EPUK/IAQM land-use guidance to determine which roads within the study area (Figure 4, SES Volume 1A) are forecast to comprise predicted construction volumes under the amended ICP that could generate new or different likely significant effects. This assessment determined that the following roads would exceed the screening criteria and require quantitative assessment using dispersion modelling:

- A406 North Circular Road;
- A5 Edgware Road;
- Brent Terrace;
- Tilling Road (west of Brent Terrace only);
- A41 Hendon Way; and
- M1 motorway.

The screening criteria was also exceeded by operational traffic on the roads listed in above as well as Claremont Road.

Dispersion modelling has been undertaken for existing and new receptors introduced by the completed BXC development plots located on Claremont Road where screening criteria is exceeded.

The screening criteria is also exceeded by construction traffic on Brent Terrace and the section of Tilling Road west of Brent Terrace. However, no existing or new sensitive receptors would be located adjacent to these roads at the time of the development Snapshots and as such, these roads have not been modelled.

The Barnet Air Quality Management Area (AQMA) is declared for exceedance of the nitrogen dioxide (NO<sub>2</sub>) 1-hour and annual mean objectives and the fine particulate matter (PM<sub>10</sub>) 24-hour mean objective. The assessment therefore focuses on concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> for which air quality objectives and EU limit values are set in legislation.

This approach provides a conservative and therefore robust assessment of the change in traffic emissions focusing on NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> impacts upon both existing and new receptors.

The SES evaluation comprises:

- a review of the BXC ES and existing air quality conditions at the Site and across the local area;
- a review of the construction traffic volumes and activity profile throughout the approved ICP and amended ICP to determine the peak year for activity, notably construction traffic;
- a comparison of traffic volumes in the identified peak year against EPUK/IAQM5 screening criteria to determine if a quantitative detailed assessment is required. As operational uses within completed development plots at each of the revised snapshots will generate traffic concurrently with construction activities, the assessment has considered the cumulative impact of construction and operational traffic; and
- consideration of whether mitigation, in addition to that already consented by the S73 Permission, is required to ensure any adverse effects on air quality are minimised.

### Resulting Impacts

#### SES 2020 Snapshot

The SES 2020 Snapshot includes significantly less construction traffic than currently approved in the existing ICP and no operational traffic. A qualitative conclusion has been drawn that there are no significant new Environmental impacts resulting in relation to this Intermediate year scenario.

#### SES 2026 Snapshot

The magnitude of change in the concentration between the Do Minimum and Do Something scenarios, and the associated effect, from the construction and operational traffic generated on selected sensitive receptors in 2026 was assessed according to the EPUK/IAQM guidance.

It has been determined that no additional mitigation is required to address Air Quality impacts resulting from changes to traffic volumes and the conclusions of the BXC ES remain valid. Taking this into account and the conclusions of the air quality dispersion modelling, the change in air quality effects between the approved and proposed peaks in construction are not considered to be significant.

In respect of the effect upon both existing and new receptors the increase in concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> as a result of construction and operational traffic has therefore been determined to be negligible.

### Mitigation Measures

The following conditions within the s73 Permission will result in the submission of further detailed assessment of impacts. The conditions are required prior to commencement of the development phases and will ensure appropriate air quality mitigation is applied during the delivery of the s73 Development and its operation:

- Code of Construction Practice (Condition 8.1);
- Construction Environmental Management Plans (Condition 8.3 and 28.1);
- Demolition and Site Waste Management Plans (Condition 9.1);
- Site-wide Construction Transport Management Plan (Condition 12.1);
- A scheme for dust monitoring, assessment and control (Condition 30.1);
- A scheme for air pollution and dust monitoring assessment (Condition 30.2);
- Scheme of proposed air pollution measures demonstrating air quality standards committed to (Condition 30.6); and
- Air quality monitoring equipment within Eastern Lands (Condition 30.6).

### Conclusion for air quality environmental assessment

The assessment found that the changes in air pollution arising from traffic were not significantly different to those already identified by the consented scheme environmental assessment.

### **Noise**

A review of the s73 ES and existing noise conditions at the Site and across the local area was undertaken to identify whether there is any need to update this assumed baseline.

A review and quantitative comparison of the construction and operational traffic forecasts for the approved ICP and amended ICP at each revised snapshot to identify whether the changes in activity would result in any new or different traffic noise effects.

Finally, consideration of the mitigation measures and design aims for plant and services noise emissions was undertaken to confirm whether any additional mitigation would be required as a result of the Re-Phasing Submissions for new receptors at the Site.

### Noise assessment in the S73 ES

The BXC ES undertook a qualitative assessment of noise effects in the intermediate years. The S73 ES states that ‘construction will create a degree of disturbance to existing sensitive receptors (mostly residents) bordering the Site or, increasingly as the development progresses over time, at residential and other parts of the consented BXC scheme that have become occupied’<sup>14</sup>. The s73 ES concludes that there will be moderate adverse (significant) noise effects during the intermediate years which would be addressed through the implementation of mitigation measures secured through Conditions to the S73 Permission. Section 20.5.18 of the S73 ES concludes that: in all cases design measures will be taken to avoid significant noise impacts.’

### Mitigation

Under the Re-Phasing Submissions, the following mitigation measures (assumed to be embedded within the design) secured through Conditions to the S73 Permission and S106 obligations will continue to be implemented to mitigate any significant construction noise effects:

- Code of Construction Practice (Condition 8.1 of the S73 Permission);
- Construction Environmental Management Plans (Condition 8.3 and 28.1 of the S73 Permission);
- Site-wide Construction Transport Management Plan (Condition 12.1 of the S73 Permission);
- Scheme for noise and vibration monitoring and assessment (Condition 29.2 of the S73 Permission);
- Adherence to permitted hours for working, set up and set down stated by Conditions 28.3 and 28.4 of the S73 Permission; and
- Adherence to the maximum noise levels during permitted working hours at residential and educational receptors respectively reflect the requirements of Conditions 28.9 and 28.10 of the S73 Permission.

#### Identified Impacts resulting from Updated ICP

During the Q3 2026 revised snapshot, construction noise associated with construction of Phase 1B (North) (which includes the Shopping Centre) would occur within the northern part of the Site. This construction activity and its associated noise would be separated from any new sensitive receptors by the existing A406 North Circular.

The nearest 'new' receptor, Plot 93, is immediately south of the proposed Living Bridge on the south side of A406 North Circular which is both dominated by road noise from A406 North Circular itself, and is a greater distance than the critical distances identified at which construction noise impacts would be avoided from activities associated with demolition, buildings foundations or buildings superstructure for two adjacent buildings.

All other 'new' receptors are at a greater distance from Phase 1B (North) and therefore construction noise impacts associated with the construction of Phase 1B (North) at these new receptors, taking into account the secured and embedded mitigation measures, is considered to be negligible.

At the Q3 2020 revised snapshot construction traffic under the amended ICP is reduced relative to Q3 2020 under the approved ICP. Associated noise effects are therefore inherently reduced

In relation to the Q3 2026 revised snapshot, whilst each phase of construction will create a degree of elevated noise levels to existing sensitive receptors bordering the Site. In particular as the development of BXC progresses over time, the approved construction traffic routing, and measures set out within the CTMP, CoCP and CEMP will continue to ensure that resultant noise levels are not significant.

Taking into account mitigation and embedded design measures, for all the assessed road links in both the revised snapshots, the maximum noise level changes are just over 1dB(A) (but predominantly below 1dB(A)). An increase of this level is considered

to be barely perceptible, particularly in the context of the existing high traffic volumes on the main surrounding highway network.

#### Conclusion for noise environmental assessment

The assessment found that the changes in noise from construction activities and noise effects arising from traffic were not significantly different to those already identified by the consented scheme environmental assessment.

#### **Conclusion for assessment of Environmental effects**

The SES traffic and transport assessment considers the change in construction and operational traffic flows during the intermediate years. There was found to be a negligible change in the flows between the construction peaks under the Re-Phasing Submissions compared to the approved ICP. The SES air quality and noise assessments also found changes in the periods of peak activity to not be significant. The assessment assumes that mitigation secured through Conditions to the S73 Permission would continue to be implemented. As such, no new or different likely significant effects were identified and the conclusions of the ES were considered to remain valid.

Officers are satisfied that the submission pursuant to Condition 4.2 and 4.4 have demonstrated that the proposed changes to the phasing will not have new or different significant adverse environmental effects compared to those previously assessed.

### **6.3 Assessment of Comprehensive Development as a result of Condition 4.2 (Phasing) and 4.4 (ICP) Submissions**

The second test of Conditions 4.2 and 4.4 is that any amendments or changes to the definition of any Sub-Phase shall have been demonstrated to be *“unlikely to significantly undermine comprehensive delivery of the mixed use town centre development in accordance with Saved Policy C1 of the LPA’s UDP 2006.”*

Saved UDP Policy C1 states:

*“The council will seek the comprehensive development of the Cricklewood, Brent Cross and West Hendon Regeneration Area in accordance with the adopted Cricklewood, Brent Cross and West Hendon Regeneration Area Development Framework and delivery strategy. Development proposals will be supported if they are consistent with policies of the UDP and their more detailed elaboration in the development framework.”*

The reason given for Condition 4.2, and 4.4 is *“...to assist in achieving the planning benefits of the comprehensive development scheme, whilst allowing sufficient flexibility to enable the development to be delivered in a manner which accords with the EIA process.”*

The proposed re-phasing and resequencing of the ICP seek to allow the Southern Development to commence ahead of the Northern Development having begun. In accordance with Conditions 4.2 and 4.4 the LPA needs to consider whether this will

significantly undermine comprehensive delivery of the mixed use town centre development.

Comprehensive development is not a defined term within the S73 Permission, however in general planning and regeneration terms, comprehensive development reflects an area that is planned to ensure the development of strategic sites is undertaken in a coordinated way, with the goal of improving and regenerating the area. It is usually applied to large or complex developments which are delivered over many years and which require land to be assembled to enable the development to be delivered, either by the Public Sector, other agencies or Developers. Areas requiring comprehensive development will usually have a specific planning framework and guidance prepared to set out the requirements to be delivered through and alongside the development. This will typically address land use, built form, landscaping, transport and access, drainage and other infrastructure requirements to support the delivery of staged development. The alternative to comprehensive development would be piece-meal or ad-hoc development of sites with the risk that the necessary supporting infrastructure and benefits are not delivered.

The principle of development occurring both to the north and south of the A406 North Circular was an important requirement of the original 2005 Cricklewood, Brent Cross and West Hendon Development Framework in order to ensure that development did not just result in an expanded shopping centre on the north side of the A406. At the time, the Shopping Centre development was driving the development programme for the regeneration. i.e. this was what the Development Partners wanted to get on with and this was what was the key viability driver. On the assumption that the expansion of the shopping centre would be the first part of the development to begin, the Development Framework sought to require the developer to commence certain components of development on the south side of the A406 at the same time as the north. This would ensure that the whole town centre would be delivered, otherwise there was a risk the southern development may not come forward.

It is important to recognise that the development sequence, phasing and programme anticipated in the Development Framework, and that which flows into the s73 Permission, is just one way in which comprehensive development may be brought forward. The Development Framework recognises the long-term nature of the regeneration and the need for flexibility. The same can be said of the S73 Permission insofar that it foresees and allows for development phasing and programme to change.

Chapter 7 of the Development Framework recognises that the implementation and realisation of comprehensive development depends on factors relating to land ownership, viability, phasing and delivery, all of which can have an impact on the timing and sequence of delivery. As explained in Section 6.1 of this report, the shopping centre expansion is now not likely to be the first part of the BXC development to come forward. The delivery strategy has moved on in the last fifteen years and the Council has secured Argent Related as its development partner for BXS and the station is now being delivered early in the development and is fully funded. In essence, the development programme now anticipates the Southern Development, including the new Thameslink Station, commencing ahead of the Northern Development.

Both BXS and BXT are integral components of the comprehensive development proposals envisaged by the S73 Permission. They are necessary to create a successful, viable and vibrant place. BXS will deliver a new town centre providing retail and leisure facilities, office development, up to 6,700 new homes, the delivery of social infrastructure such as the replacement of Whitefield School and Claremont Primary School and the new Mapledown Special Needs School, a health centre and community facilities. BXS will support the creation of circa 25,000 jobs with a new office district and commercial floorspace. BXT will deliver rail infrastructure and a new train station to support and stimulate the regeneration area and a new waste handling facility to replace the existing Hendon Waste Transfer Station.

The appointment of Argent Related as LBB's delivery partner for the southern development of BXC represented a significant step toward the realisation of development south of the A406 and combined with the securing of Reserved Matters Approval for all of Phase 1 (South) provides assurance that comprehensive development to the south of the A406 will be forthcoming. With a very experienced developer on board who specialises in large scale, long-term regeneration schemes, and with Government Grant now secured for the delivery of the new station, the dynamics for delivery of BXS have significantly changed during the intervening time since the original outline planning permission was granted in 2010. The Southern Development is now in a more secure position and ready to be commenced.

Commencement of BXS will ensure that the new High Street on the south side of the A406 comprising retail and other town centre uses can be delivered. This will contribute towards achieving the requirement for the new Town Centre to span both North and South of the A406 and accords with the Development Framework and Policy requirement for the to deliver a new town centre and not just an expanded shopping centre. This delivery sequence assumes that BXN will still happen, just later than originally envisaged. Therefore, the delivery of BXS will provide the town centre context required by policy, to support the additional retail floorspace approved at BXN.

The Development Framework required the provision of a comprehensive and extensive packaged of improvements to the transportation network. This relates to public transport improvements including the replacement bus station, improved pedestrian connections to Brent Cross Underground Station and the delivery of a new Train Station and transport interchange along with new bus routes. The Council is now delivering the New Train Station through the Thameslink Project. BXS will deliver the new transport interchange, bus routes and improvements in the connections to Brent Cross Underground Station, along with the new High Street and improved highway and pedestrian links into neighbouring communities. It will also deliver key junction improvements at key southern junctions.

Whilst development may not be delivered concurrently, the implementation of BXS will not prejudice the ability for BXN to be delivered. Development is still able to happen on both sides of the A406. In fact, by delivering some of the highway junction improvements, the Southern Developer are effectively reducing the infrastructure cost for the Northern Developer, thereby lowering the bar for the Northern Development to come forward. Furthermore, the commencement of BXS and the Thameslink Station project will also provide investor confidence in the area in general and will help provide

improved conditions within which the shopping centre development can come forward in.

The commencement of BXS will also achieve a number of other strategic objectives. Delivery of new housing remains a Government and regional priority to meet current and long-standing need. Therefore, delivering the new homes in BXS supported by the associated public transport infrastructure and community facilities, will enable sustainable community to be created. The New Train Station is critical to supporting new office and commercial floorspace at BXS. Without the Station it will not be possible to establish the new office quarter and deliver the associated jobs and employment.

In essence, whilst the sequence of delivery may have changed, Comprehensive Development is still able to be achieved. It is simply a different sequence to delivering the overall masterplan.

### **Conclusion for Comprehensive Development**

If both BXS and BXT were to be delayed from coming forward it would hold back regeneration of this important Opportunity Area contrary to regional and local planning policy and would slow the delivery of new homes within Barnet and London. It would be counter-productive for both BXS and BXT to be prevented from coming forward in advance of BXN. This would essentially hold back regeneration and significantly increase risk in the comprehensive development being fully realised. It has taken 15 years to reach this stage and it is important that key parts of the programme are allowed to come forward.

The programme is such that BXS and BXT are ready to go now. The revised phasing and delivery strategy will allow BXS LP to deliver certain items of infrastructure ahead of BXN commencing on site. This approach enables infrastructure to be put in place ahead of development and creates a platform for both BXN and BXS to come forward, kickstarting and thereby securing comprehensive development of the wider BXC area as envisaged by the planning permission.

This approach does not create a situation where comprehensive delivery is less likely. Rather, the early delivery of critical infrastructure and the commencement of BXS will assist delivery of BXN and therefore is the best way to ensure that comprehensive development at BXC can be achieved.

The proposals have no impact on the overall quantum of floorspace or the overall level of community, education and health facilities to be provided through the 2014 Permission.

The phasing and ICP amendments proposed under this application are therefore not considered to undermine the comprehensive delivery of the mixed use town centre development and will assist the longer term comprehensive development of BXC in accordance with saved Policy C1 of the UDP and other policies in the Development Plan.

## **6.4 Transport Report**



Extensive transport assessment was undertaken as part of the S73 Permission which identified and secured a comprehensive package of transport mitigation measures, and highway junction improvements.

The traffic impact of development within Phase 1 along with junction improvement and infrastructure has previously been assessed and approved by LBB Highways and TfL in the Phase Transport Report for Phase 1.

The Phase Transport Report provides an assessment of the operational impact of the phase as a whole i.e. at the end of the phase when all infrastructure and all development in that phase is complete. The re-phasing submissions do not change the quantum, scale or the mix of uses of the development consented by the S73 Permission or the infrastructure and amount of development approved within Phase 1. They simply adjust the sequence of delivery of already approved infrastructure and development within Phase 1 which has been assessed using the relevant traffic models for the scheme.

It should be noted that there remains a requirement for the Phase Transport Report for Phase 2 (South) (Thameslink Station) to be submitted and approved by the LPA and Highways Authority alongside the reserved matters for the Station. The phase transport report process requires the Developer to undertake traffic modelling using the strategic model for the development, along with appropriate local modelling of relevant junctions, to assess whether sufficient mitigation is in place to accommodate the development within that phase. The Phase Transport Report must account for development and infrastructure already approved in the previous phase(s) and therefore provides an accumulative assessment of the development as it is progressed.

Whilst not required to meet the tests of Condition 4.2 in relation to environmental effects and comprehensive development, the applicants have submitted a Transport Report with this application as supporting information. This has been undertaken by the Applicant as a separate exercise to determine whether the proposed split of infrastructure items to be re-phased into the new Phase 1A (north) (Infrastructure 1) sub-phase, would be sufficient to accommodate the development of Phase 1 (South). The Applicant has estimated that the number of peak hour vehicle trips generated by the amount of development approved within Phase 1 (South) and Plots 53 and 54 (totalling 1,039 residential units) is less than 100 two-way movements in the AM, PM or Saturday peaks. These plots form part of the Phase 1 as a whole which has been assessed and approved under the Phase Transport for Phase 1. Therefore, these trips have already been accounted for in the traffic assessment to date.

Plots 11, 12 and 13 which contain the bulk of these homes access the network onto Claremont Road. The applicant has therefore carried out Local Modelling for relevant junctions at Claremont Road/Tilling Road and Claremont Road/Cricklewood Lane to provide a degree of assurance that these junctions can accommodate the traffic flow generated by these early development plots, in advance of the wider infrastructure package in Phase 1A (North) (Infrastructure 2) being delivered.

#### **6.4 Impact on Critical Infrastructure**

The S73 Permission is clear in that any application for re-phasing pursuant to Condition 4.2 must also clearly specify any consequential changes to the Critical Infrastructure to be delivered as part of such Sub-Phase and to the relevant Phase Details to be approved pursuant to the detailed requirements for pre-commencement approvals.

The Critical Infrastructure to be delivered as part of Phase 1A (North) itself remains unchanged by the proposals because Phase 1A (North) (Infrastructure 1) and Phase 1A (North) (Infrastructure 2) collectively comprise the entirety of Phase 1A (North) as existing.

This application does not propose any amendments to the Indicative Phasing Plan as the Phase 1 Sub-Phases are not illustrated on the Indicative Phasing Plan and no amendments to the content of Phase 1 itself are proposed.

## **7. ENVIRONMENTAL IMPACT ASSESSMENT**

### **7.1 Regulations**

The EIA procedure in the UK is directed by the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 as amended (the 'Regulations'), EU Directive 85/337/EEC (as amended), as well as the National Planning Practice Guidance (2014).

The S73 Permission and the original 2010 Outline Permission were subject to Environmental Impact Assessment. The Environmental Statement (the 'ES') for the BXC scheme is comprised of the approved Environmental Impact Assessment which accompanied the S73 Permission and subsequent ES Addendums, Further Information Reports (FIRs) and Supplementary Environmental Statements which have accompanied Reserved Matters Applications (RMAs), Re-phasing Applications and Non-Material Amendments (NMAs) against the S73 Permission.

Regulation 9 of the Regulations requires local planning authorities to consider whether or not the environmental information already before them (i.e. the ES submitted with the 2013 application F/04687/13 and any additional environmental information) is adequate to assess the environmental effects of the development.

### **7.2 Assessment**

A Supplemental Environmental Statement (SES) prepared by Arup pursuant to the Regulations, has been submitted in support of the application in recognition of the requirements set out in both Condition 4.2 and 4.4. The SES is a report which is supplementary to the original S73 ES which should accompany any application which requires the submission of environmental information under the EIA Regulations. The Supplemental ES is a stand-alone document and should be treated as adding to, rather

than amending the Original ES that supported the 2010 and S73 Permissions, which remains intact as originally submitted.

As set out in Section 6.2 of this report, the submitted SES confirms that the proposed re-phasing and update to the ICP to amend the delivery sequence of development and infrastructure within Phase 1 would not result in additional significant impacts in comparison to the effects reported in the original ES. Therefore, with the addition of the SES submitted with this application and the environmental information already before the Council, it is considered that there is adequate information to assess the environmental effects of the development with the proposed adjustments to phasing and delivery.

## **8. SECTION 106 LEGAL CONSIDERATIONS**

### **8.1 Deed of Variation**

A Deed of Variation (DoV) is required to the Section 106 Agreement dated 22 July 2014 which is attached to the S73 Permission to update the definitions in the s106 agreement to align with the changes made by the re-phasing and associated applications. The changes are largely to reflect the split of Phase 1A (North) into two further sub-phases of Phase 1A (North) (Infrastructure 1) and Phase 1A (North) (Infrastructure 2).

Some new obligations have been added which relate to Phase 1A (North) (Infrastructure 1) and Phase 1A (North) (Infrastructure 2) respectively, which generally follow the format of the previously included obligations. The following changes have also been made:

- Necessary Consents are no longer required prior to the Commencement of any Sub-Phase, other than Infrastructure 1 and Infrastructure 2. Relevant amendments have been made to reflect that. An obligation is included in relation to each Sub-Phase to get the Necessary Consents during the Sub-Phase;
- Certain obligations that are related to Infrastructure 2, as opposed to Infrastructure 1, have been amended to reflect that being the case; and
- In relation to Schedule 3, the general principles referred to above apply. BXS will be responsible for any Supplementary Transport Measures arising out of Infrastructure 1 in the event that BXS commences Infrastructure 1, and the Northern Development related obligations will not be triggered by Infrastructure 1 being commenced by BXS.

A draft DoV has been prepared through discussion with Development Partners and the Council and has been agreed in advance of this submission. TfL have also reviewed the draft. The draft DoV has been submitted alongside this application and will be completed and signed by the Council following the determination of this application.

## 9. EQUALITY AND DIVERSITY ISSUES

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

- “(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”*

For the purposes of this obligation the term “protected characteristic” includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex; and
- sexual orientation.

Officers have, in considering this application and preparing this report had regard to the requirements of this section and have concluded that a decision to approve this conditions application will comply with the Council’s statutory duty under this important legislation.

## 10. CONCLUSION

The planning permission for the Brent Cross Cricklewood regeneration scheme includes a series of mechanisms that allow the phasing and sequence of delivery of the development to be amended in recognition that the scheme will take over 15 years to deliver and therefore will need to respond to changes in requirements.

Following the BXC Development Partners decision to defer the start on site for Phase 1B (North) due to the current uncertainty within the retail market and economic climate, it is necessary to re-phase infrastructure within Phase 1A (North) to create two new sub-phases of and to re-sequence the northern and southern development within Phase 1 to allow BXS to begin ahead of Phase 1B (North) and its associated infrastructure.

The programme is such that BXS and BXT are ready to go now. If both BXS and BXT were to be delayed from coming forward it would hold back regeneration of this important Opportunity Area contrary to regional and local planning policy and would slow the delivery of new homes within Barnet and London. This would essentially hold

back regeneration and significantly increase risk in the comprehensive development being fully realised. The revised phasing and delivery strategy will allow BXS LP to deliver certain items of infrastructure ahead of BXN commencing on site. This approach does not create a situation where comprehensive delivery is less likely. Rather, the early delivery of critical infrastructure and the commencement of BXS will assist delivery of BXN and therefore is the best way to ensure that comprehensive development at BXC can be achieved.

The re-phasing proposals have no bearing on the overall quantum of floorspace proposed through the S73 Permission.

The Environmental Statement of Compliance accompanying this application has addressed all relevant environmental issues and concluded that there are not likely to be any adverse, significant different effects from those assessed in the S73 Permission Environmental Statement. Any mitigation measures secured in the S73 Permission Environmental Statement are controlled by conditions and obligations in the S73 Permission itself and remain sufficient to address impacts resulting from the re-phased and re-sequenced Development.

These amendments, together with the existing conditions and associated planning obligations will continue to ensure that the quality of future development and regeneration area develops as anticipated in the masterplan.

It has been demonstrated that the test under conditions 4.2 and 4.4 would be satisfied in respect of the proposed amendments to phasing and resequencing as reflected in the ICP and evaluated within the SES. The proposed changes do not have any significant adverse environmental effects compared to those assessed in the existing EIA information for the Brent Cross Cricklewood Regeneration Area development; and do not undermine the comprehensive redevelopment of the Brent Cross Cricklewood Regeneration Area.

The proposed amendments and updates are acceptable and therefore **APPROVAL** is recommended.