

Examination of the South London Waste Plan**Firstplan for DB Cargo****Representor number: CON 19**

Written Statement – Matter 3: Does the plan make adequate provision for the waste management apportionments required by the London Plan and any other arisings, and is it positively prepared in this regard?

1. Introduction and Summary

- 1.1 This Written Statement is submitted on behalf of DB Cargo UK Ltd ('DBC') in relation to Matter 3. It focuses in particular on the following Issue and Questions:

Issue (v) is the safeguarding of individual sites justified; are the throughput assumptions they contain soundly based; would the stock of safeguarded sites provide sufficient opportunities to meet waste needs?

Questions:

4. Is the Plan's approach to Chessington Railhead justified and would it provide effective policies for the processing of CDE waste in this regard?
5. Would the approach to the Chessington Railhead accord with the Framework insofar as it requires planning policies to "safeguard existing, planned and potential sites for... the handling, processing and distribution of substitute, recycled and secondary aggregate material"; and the London Plan insofar as it expects development plans to "support the production of recycled/secondary aggregates and, where, practicable, expand capacity at/or adjacent to aggregates wharves and rail depots and quarries during their operational life, within or adjacent to major construction projects" and to "identify and safeguard sites and facilities, including wharves and railheads, with existing, planned or potential capacity of primary and/or secondary/recycled aggregates"?
- 1.2 As detailed in the representations made by Firstplan on behalf of DB Cargo to the Submission Draft South London Waste Plan (16 October 2020) the Plan's approach to Chessington Railhead is not sound. The failure to safeguard the Railhead is not justified, is not effective and is not compliant with London Plan and NPPF requirements.
- 1.3 The Plan has failed to make policy provision in the form of an allocation or policy safeguarding for the Chessington Rail head site for waste uses or at minimum provide acknowledgement of the site within supporting text given its very particular circumstances. This is despite the fact that both the site owner (Network Rail) and the Long Lease Holder/Freight Operator (DB Cargo) are both statutory railway undertakers and have confirmed that the site is being brought forward under rail related permitted development rights to facilitate the transfer of freight by rail. Integral to this they have appointed an experienced minerals and waste operator and granted them a 25 year under-lease subject to the site being in rail use.
- 1.4 Whilst minerals and waste transfer operations are being progressed under rail related permitted development rights (i.e. a planning application is not required for these proposals and is not dependent

on a site allocation or safeguarding) this does not negate the importance of identifying this site in the SLWP. If this does not happen the key concerns in the context of the tests of soundness are:

i) Failure to Safeguard a Site Currently Being Brought Forward for Waste Transfer Purposes

- The site once it becomes operational will not benefit from formal identification or safeguarding in the Waste Plan under Policy WP3, 'Existing Waste Sites', and so will not have the added benefit and protection afforded under Policy WP8, 'New Development Affecting Waste Sites'. Critically, sites such as these are required to be safeguarded both by the NPPF and the London Plan in terms of sustainability objectives and securing modal shift and in terms of handling, processing and distribution of recycled material.
- The 'agent of change' requirements in the NPPF would apply to new sensitive development coming forward in the surrounding area once the Railhead is operational for its proposed minerals and waste transfer use. However, the more specific and targeted requirements of Policy WP8, which build on the NPPF and London Plan Agent of Change requirements, would only protect the Chessington Railhead if it is identified as an 'existing waste site' or otherwise directly referenced. Policy WP8 underpins the safeguarding regime by making specific requirements of applicants for new development in the vicinity of waste sites. It is noted that a site adjoining the Railhead has already been promoted for residential development as part of the Kingston Local Plan review process.
- The intent of Policy WP8 is to deal with both safeguarded and potential future sites (compensatory sites) so it would be entirely consistent to additionally include reference to the Chessington Railhead Site which is confirmed as coming forward for waste uses.

ii) Apparent Policy Bar on Intensification/Co-Location Other than on Existing Waste Site or for Compensatory Provision.

- The current SLWP approach (failure to safeguard the Chessington Railhead) would further result in an apparent policy bar on future co-location of complementary waste management facilities once the Railhead is up and running as a dual use minerals/waste transfer site. This is on the basis of the current drafting of Policy WP2 (b). This is particularly when read together with Policy WP 4, which deals only with proposals for new waste sites to provide compensatory provision, and Objective 3, which seeks to safeguard existing waste sites to meet London Plan HC&I targets and C&D needs on existing sites. Without identification of the Chessington Railhead Site and/or other additions/amendments to Policy WP 2 this could prevent sustainable co-location of complementary recycling activities contrary to the objectives of moving waste up the waste hierarchy and circular economy principles. It would also be contrary to NPPF requirements at para 11, that plans should apply a presumption in favour of sustainable development and that they should be sufficiently flexible to adapt to rapid change.
- Whilst this apparent policy bar might be overcome in the process of making an application under 'other material considerations' arguments, it cannot be 'sound' for the Plan to have a policy hurdle, which could preclude the principle of co-locating complementary and sustainable waste uses on what will be an existing waste transfer site. There would be clear advantages in the future to have a CD&E waste recycling facility co-located at the rail site – both in terms of the in-coming waste streams which would minimise waste going to landfill/restoration and would allow for production of a recycled aggregate to complement the supply of primary material imported by rail. Co-location of such activities has the advantage of minimising land take (by virtue of shared facilities – admin/welfare buildings, weighbridges etc..) and allows for backloading of HGVs to further reduce HGV road mile

generation/emissions over and above the savings made from the transfer of freight from road to rail.

- 1.5 In summary, and for the reasons further detailed in the original representations made to the Submission Draft, the Plan's approach to the site is not consistent with the NPPF requirement that plans should be prepared with the objective of contributing to the achievement of sustainable development. It is not consistent with NPPF requirements that plans should be sufficiently flexible to adapt to rapid change. It is not consistent with requirements in terms of safeguarding.
- 1.6 These submissions are made in the specific context of the Chessington Railhead site to ensure that it is appropriately safeguard both as a waste site and in the context of new development coming forward in the vicinity which could prejudice its operation. The submissions are also made to ensure that the potential for future co-location of complementary waste uses is not precluded. In more general terms however it is similarly considered that the prohibitive policy approach in the Plan to new sites coming forward is not sound. It is not supported either by the NPPF nor the London Plan. The SLWP should be clear that it would support new waste sites coming forward in appropriate circumstances and provide an appropriate criteria based approach to deal with such sites as and when they do.

2. Updated Information

i) Status of Site

- 2.1 The planning status and history of the site including how it has been operated, DBC's secured interest of the site (long lease of 125 years), anticipated date of vacation of the site by the tenant CPL Distribution Ltd ('CPL') and anticipated dates for progression of works and commencement of waste exportation by rail were detailed in the Firstplan/DBC response to the Submission Draft Consultation (October 2020).
- 2.2 It is confirmed that CPL, who operated the site as a rail served coal depot until the 1990's (then under the name Charrington & Co) and subsequently operated the site as a non-rail served fuel depot, formally vacated the site in May 2021.
- 2.3 Preparatory track clearance works have been recently completed by DBC. Works to repair and upgrade the existing rail sidings commenced on 5 July 2021. These works are expected to take 3-4 months.
- 2.4 DBC have formally submitted requests for NR train paths to service the site. Under NR's timetable for this process these will be confirmed by December 2021. Export of waste is expected to commence by the end of 2021/very early 2022.
- 2.5 Should it be helpful to the Inspectors a site visit can of course be arranged.

ii) London Plan – Adopted (March 2021)

- 2.6 Since the submission of representations to the Submission Draft Consultation the London Plan has been adopted. Section 3 of the response made to the Submission Draft provided a Policy Overview including reference to the then Draft London Plan – Intend to Publish Version (December 2019).
- 2.7 No material change has been made to the policies and supporting text previously identified. The Adopted London Plan continues to place a clear policy requirement to safeguard rail sites and to deliver modal shift from road to rail. The failure to expressly identify the Chessington Railhead Site as a dual use minerals and waste rail transfer use with the potential for sustainable co-location of other waste management operations is not in compliance with the adopted London Plan.
- 2.8 Further, the London Plan places no embargo on development proposals for new waste sites – but simply sets a criteria based framework to evaluate such proposals under Policy SI 8 (E). Criteria (5) of this policy

makes the specific requirement that the use of rail ‘should be supported’. Similarly, para 9.8.19 confirms that ‘where movement of waste is required, priority should be given to facilities for movement by river or rail’. Policy SI 7 confirms that resource conservation, waste reduction increases in material re-use and recycling, and reductions in waste going for disposal will be achieved, *inter alia*, by meeting or exceeding the targets for construction and demolition and excavation waste streams. New waste sites can offer the opportunity to manage waste further up the waste hierarchy as supported by the adopted London Plan.

- 2.9 The SLWP approach which would seemingly prevent new waste uses from coming forward, other than on ‘existing waste sites’ as identified in the Plan, has the clear potential to stifle waste management proposals in the SLWP area (as evidenced by the impact it could potentially have on future development at the Chessington Railhead) and negatively impact London’s transition to a circular economy. If this were coupled with a loss of sites or reduction in throughput of existing or compensatory sites this could reduce the borough’s waste management capacity over time and jeopardise the SLWP’s ability to plan for its identified waste needs. It is noted in the particular context of C&D waste streams that there is only a small surplus identified for this waste stream and that only two site currently counting toward the C&D target are identified as having potential for intensification.

iii) Kingston Local Plan Review – Further Early Engagement Consultation (July 2021)

- 2.10 As previously detailed, representations were made on behalf of DBC to the Kingston Local Plan review ‘Early Engagement’ consultation in 2019. At that date DBC were still in the process of formally securing the site for rail freight uses. Nonetheless DBC and Network Rail (NR) both made representations to LB Kingston confirming the fact that:

- The Chessington Railhead was not available for residential development and that it should be safeguarded for rail related freight use and that DB Cargo are proposing to take it forward under PD rights in this respect.
- Any residential development on the adjacent Chessington Golf Course site, if retained in the Local Plan as an allocation, must be designed and laid out to ensure it does not prejudice the future operation of the site for freight.

- 2.11 It is confirmed that LB Kingston responded positively to the representations made Firstplan/DB Cargo and NR by email dated 11 June 2020 stating that:

“We can advise that Coal Depot, Garrison Lane, Chessington South (SA099) will be considered as "unavailable" for residential development, and that the site will be safeguarded for rail freight/transport uses in the emerging New Local Plan.”

- 2.12 LB Kingston have very recently commenced a further Regulation 18 Local Plan ‘Early Engagement’ consultation (July 2021). This consultation is still very much at the consideration of options and issues stage (i.e. there is no Local Plan, draft policies or Policies Map being consulted on). However, a ‘Site Assessments Update’ has been issued as part of the consultation. The Chessington Railhead Site is again identified in this document, now as site Ref: CS09. The Site Assessments Update has removed the previously indicated/potential residential use and confirmed that the site is ‘unavailable’ for housing. It now reflects the fact that the landowner (DB Cargo/NR) have promoted the site as an ‘Active Freight Site, seeks safeguarding as ‘Strategic Rail Freight Site’. It is noted that the Railhead Site Assessment Sheet has in error identified the site as a ‘greenfield site’. The entirety of the Chessington Railhead site comprises ‘brownfield’ land.

3. Changes Required to Make the Draft SLWP Sound

i) Identification of Chessington Railhead as a ‘Safeguarded Waste Site’

3.1 In context of NPPF and London Plan requirements and the status of the site as detailed (i.e. in the control of the rail industry and a minerals and waste operator and currently be actively brought into use for minerals and waste transfer by rail), the Chessington Railhead site should:

- Be expressly identified and referenced as a ‘safeguarded waste site’. The safeguarding should be clear that the site will be a ‘dual-use site, with a minerals operation within the site’ (this is consistent with approach proposed for the Days Aggregates Purley Depot, Site Ref C4). The Plan should be clear that there is potential to further increase waste management by co-location of appropriate complementary waste uses (recycling of C&D waste).

3.2 Alternatively, and at minimum, the SLWP, should be amended to provide for:

- Inclusion of a specific reference within supporting paragraph /text in Section 5 of the SLWP as follows (proposed text shown bold and underlined):

The Chessington Railhead Site at Garrison Lane is known to be in the control of a freight operating company and a minerals and waste operator and is in the process of being brought into dual use as a rail served waste and minerals transfer site and is supported by the SLWP. Reactivation of this rail served site could in the future offer opportunities for intensification by co-location of other waste uses (C&D recycling) and would be supported subject to other policies in this South London Waste Plan and the relevant borough’s Development Plan.

3.3 Subject to the above, and primarily if the second of the above two options is progressed the following changes will additionally be required (proposed text shown bold and underlined):

ii) Amendment to Policy WP2 ‘Strategic Approach to Other Forms of Waste’

3.4 Amendments to be made to Policy WP2, *Strategic Approach to Other Forms of Waste*, to recognise Chessington Railhead being reactivated for waste transfer purposes as follows:

(e) Development for improvements to

(f) Development of C&D recycling facilities at the Chessington Railhead site, Garrison Lane, once reactivated as a dual use minerals and waste rail transfer site will be supported subject to other policies in this South London Waste Plan and the relevant borough’s Development Plan.

iii) Amendment to Policy WP3 ‘Existing Waste Sites’

3.5 Amendment to be made to Policy WP3, *Existing Waste Sites*. to appropriately reference the Chessington Railhead site as follows:

Safeguarding

- (a) The sites set out on Pages 44-91 **and the Chessington Railhead site as detailed at Page [X]** of this South London Waste Plan will be safeguarded for waste uses or waste/mineral uses only.

iv) Amendment to Policy WP8 'New Development Affecting Waste Sites'

3.6 Amendment to Policy WP8, *New Development Affecting Waste Sites*, so that it ensures that the Chessington Railhead site is appropriately protected under the 'agent of change principle' and the specific provisions of this policy at part (a) and (b). Additional amendments have been proposed at part (b) (iii) to further strengthen the protection the policy affords to safeguarded waste sites. This would underpin the 'effectiveness' of the plan and its 'consistency with national policy'. Proposed additions are shown in bold and underlined as follows:

- (a) New development should be designed to ensure that existing waste sites, **the Chessington Railhead site once reactivated as a dual use mineral and waste rail transfer site** and sites developed for compensatory provision remain viable and can intensify without unreasonable restrictions being placed on them.
- (b) Where new development is proposed that may be affected by an existing waste site, an extant scheme, permission for additional capacity, **the Chessington Railhead site once reactivated as a dual use mineral and waste rail transfer site** or a site developed for compensatory provision, the applicant should...
- (i) Ensure that good design mitigates and minimizes existing and potential nuisances generated by the waste use.....
- (ii) Explore mitigation measures early in the design stage.....
- (iii) Engage early with the operator of the waste site to ensure a full understanding of the operation (including on-site activities and hours of operation) and to ensure baseline assessments are robust.***

** Note: the addition of the wording at (iii) is now proposed as a Main Modification (as detailed in the 5 March 2021 schedule) in response to the same requirement being made by Firstplan by representations on behalf of Day Group (Con18/Rep 76).*

Vilna Walsh, BSc (Hons), DipTP, MRTPI

Director, Firstplan

E: vwalsh@firstplan.co.uk

T: 020 3096 7000