

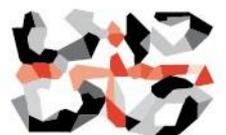
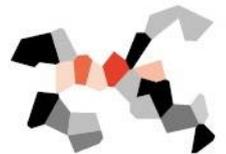
Objection to Planning Applications

15/00368/FUL, 15/00400/FUL &

15/00414/FUL

Land at Bow Goods Yard

On behalf of OPCRD



August 2016

C12097



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Executive Summary

This report forms the basis of an objection to the following planning applications:

- 15/00368/FUL, *“Construction of a concrete batching plant, associated infrastructure, parking for staff and associated vehicles, weighbridge, ancillary modular office buildings and rail delivered aggregate facility and access road from Pudding Mill Lane”*;
- 15/00400/FUL, for *“...full planning permission for a concrete block manufacturing plant (incorporating offices), a ready-mix concrete plant and parking and storage areas with all aggregates delivered by rail and products exported via access to Marshgate Lane”*;
- 15/00414/FUL, *“... for full planning permission for the erection and use of a concrete batching plant and ancillary facilities with access from Marshgate Lane”*; and
- A fourth application currently being prepared for submission by United Asphalt for *“the erection and operation of a rail served asphalt plant with associated ancillary structures and facilities, car and HGV parking.”*

The vision for the area focusses on the importance of raising aspirations, skills and income levels in order to achieve convergence with other parts of London. This relies on high quality design and community participation and ownership as a means to unlock significant capital investment in new homes, commercial space, schools and community facilities will be critical. The Mayor of London has described the area as London’s single most important regeneration project for 25 years.

These aspirations are set out in the LLDC’s Remit, Function, Purpose and Policies, which task the LLDC with using the once in a lifetime opportunity to maximise the legacy of the London 2012 Olympics.

These proposals represent an unattractive low grade heavy industrial use that will add significant volumes of traffic, particularly HGVs, onto congested roads, exacerbating existing local air quality problems in the area. This, along with the low quality design will, if anything, harm the prospects of delivering private investment to the area, and the only benefit that arises from all this is the delivery of a very low number of largely unskilled jobs.

The proposals will harm the area, and harm the prospects of delivering the aims and objectives that have been set for the LLDC.

The LLDC prides itself on its community outreach agenda, and on the importance of engaging with the local community to achieve community ownership of the area’s redevelopment. However, in this case, no pre-application community consultation was undertaken at all.

The proposals conflict with both the adopted local plan and the London Plan.

It does not represent the highest standards of design and does not respond to the context set by the recent redevelopment of the area to create the Olympic Park and the new neighbourhoods which are beginning to be built around it, in direct conflict with local plan objective 3.

Rather than the transformative change proposed in the LLDC’s socio-economic policy, it simply proposes to create more of the low grade industry that the policy describes as blighting the area in the past.

The proposals conflict with local plan Strategic Policy SP.3, Policy BN.1 and Policy BN.11, which refer to the need to give primary consideration to the creation of 'place', to create a high-quality environment that enhances the context of the area, and to minimise impact on existing and proposed developments and reduce noise and improve air quality.

The proposals do not relate well to the local area's defining features, namely the Olympic Park and ArcelorMittal Orbit, the Jubilee Greenway and the River Lea, and the attractive high intensity mixed use development that is being built around it; it does not enhance the area's setting; the impermeable nature of its layout and the proposed uses does not ensure linkages and its inter-relationship with the Jubilee Greenway and River Lea corridor will not facilitate movement along those routes; it does not integrate well with public and private space; and it does not minimise impact on proposed and existing developments.

Even the cumulative townscape and visual impacts assessment produced for the applications is unable to conclusively determine that the proposal would enhance the built, historic and landscape context; the air quality cumulative impact assessment is unable to conclude that the proposals are at least air quality neutral and, as noted above, the proposals do not represent the high quality design vision set out in the LLDC's Design Quality Policy.

The proposal also conflicts with policies 2.4 and 7.14 of the London Plan, by not promoting appropriate regeneration of the Olympic Park and exacerbating existing air quality issues that have led to the introduction of Air Quality Management Areas for both Newham and Tower Hamlets.

Furthermore, the applications are procedurally flawed because no Environmental Impact Assessment has been required or produced to ensure that the LLDC fully understand the likely significant environmental effects of the proposal.

The proposals constitute integral parts of the same more substantial development, and should clearly be considered as single development for the purposes of EIA.

In combination, the three applications total 5.22 hectares in area, and so are schedule 2 developments in terms of the EIA regulations. Being larger than 5 hectares even without the United Asphalt proposal, and resulting in an increase in traffic, noise and emissions, as well as townscape and visual impacts, they are above the threshold that the PPG suggests that an EIA should be required for.

There is also a strong argument for referring the applications formally to the Mayor of London under *The Town and Country Planning (Mayor of London) Order 2008* as an application of Potential Strategic Importance. It would appear that this was not done.

No non-technical summary, nor any assessment of alternative developments has been provided by the applicant. Alternatives clearly exist that would meet local planning policy requirements to retain and utilise the railhead and to use the site for industrial development, and provide a capital return and ongoing trade and income for the landowner, DB Cargo (UK), whilst resulting in fewer adverse environmental effects. A full EIA, setting out and assessing these alternatives, would have enabled the LLDC to consider the proposals in the full knowledge of the likely significant environmental effects.

The LLDC has attempted to remedy the situation by requesting a cumulative assessment of a number of environmental effects. However, this is inadequate because of the lack of alternatives, and the assessments that result are either overly optimistic or flawed, and therefore are insufficient to enable the LLDC to come to a decision about the application in the full knowledge of likely significant environmental effects. Better alternatives to this proposal exist, and the LLDC should give itself the opportunity to test

these alternatives before determining these planning applications. This can be, and should have been, done through the Environmental Impact Assessment process.

The Traffic Cumulative Impact Assessment is based on a Traffic Survey undertaken on a day when no traffic was able to use the Western half of Loop Road. These flawed observations were then used as a basis for forecasting future traffic movements. This flaw was then compounded because they were then used to inform forecasts of noise and air pollution levels in the respective cumulative assessments. Without an adequate baseline, it is difficult to understand how the cumulative assessments are able to come to any robust conclusions about likely significant environmental effects.

Future traffic volumes are also likely to be underestimated because of the reliance on TEMPRO growth forecasts for the use of the Olympic Stadium by West Ham United, and for a new primary and secondary school and sixth form college. TEMPRO growth forecasts do not deal with leisure or education uses.

Despite these apparent flaws in both the baseline and the forecast traffic volumes, the assessment concludes that the developments proposed in the three applications will cause a 144.5% increase in overall traffic and a 330.5% increase in HGV traffic on Marshgate Lane southbound, yet because the baseline is low, yet concludes that this suggests that the *“detrimental effect ... is not ... particularly onerous”*.

It also concludes that the Marshgate Lane/A118 High Street slip road junction will be beyond fully saturated, resulting in severe traffic queues, including a high proportion of HGVs, which are known to produce harmful particulate material of the kind that has led to the area being declared an Air Quality Management Area. Yet in this scenario, the assessment concludes that *“the impact of this level of traffic is not considered to be severe, nor will it have a material effect on the operation of the network”*.

In fact, the conclusion of this analysis can be reinterpreted to say that the proposed developments cause a substantial increase in traffic compared to today's baseline, and that this additional traffic, which consists predominantly of HGV traffic, will need to queue for some time at an overly congested junction. This queueing will exacerbate existing air quality issues in the area.

The cumulative noise assessment concludes that the vast majority of noise sensitive receptors analysed will experience noise levels significantly above the normal maximum of 50dB set out in the British Standards, and even well above the exceptional maximum of 55dB that the British Standards suggest might be acceptable in noisier environments. The assessment suggests that this would result in windows needing to be double glazed and closed at all times, which is precisely what the PPG uses as an example of an indicator of a Significant Observable Adverse Effect Level. Despite this, the assessment concludes that the noise impact is acceptable.

In terms of air quality, the site is affected by Air Quality Management Areas designated for both Tower Hamlets and Newham because of unacceptably high levels of PM₁₀ dust and nitrogen dioxide.

The plant itself will generate dust, to the extent that the Environment Agency recommends full enclosure of all aggregate storage and waste management facilities. However the cumulative air quality impact assessment does not come to any conclusions about the significance of the proposals on dust generation. It simply concludes that any construction related dust can be managed by a construction environmental management plan, and any operation related dust can be managed by a dust management plan.

In terms of NO₂, the assessment concludes that the proposals lead to an increase in levels at every receptor. This means that the proposals conflicts with policy 7.14 of the London Plan because they undoubtedly worsen an air quality problem already serious enough for the area to be declared an Air Quality Management Area.

Yet the assessment concludes that this is not significant because the deterioration in air quality relative to the existing concentrations is low. This is effectively arguing that the air quality locally is so bad that small relative increase is not significant. In the context of aims to reduce levels of air pollution in AQMAs, this is illogical.

The townscape and visual impact cumulative assessment concludes that the site currently has the appearance of a *“derelict brownfield site”*, the townscape effects of the proposed redevelopment *“constitute a balance of beneficial and adverse impacts”*, and *“in any case the effects will be minor”*.

When this is compared with the aims and objectives of the LLDC for the Olympic Park this level of, perhaps, improvement, seems underwhelming. Alternative uses, as recommended by the *Guidelines for Landscape and Visual Impact Assessment* on which the assessment is based, will surely result in clearer townscape benefits for the site, and should be considered.

The visual sensitivity to change of the ArcelorMittal Orbit appears to have been underestimated. While the Guidelines for Landscape and Visual Impact Assessment do not specify how visual sensitivity should be categorised, it would be normal to describe an internationally recognised and promoted viewpoint such as this as having a very high sensitivity to change.

Similar criticisms could be made in relation to the Jubilee Greenway and the View Tube Café. These viewpoints take in views of the London skyline across the development sites. These include views of key London landmarks including The Shard and *“The Walkie Talkie”* at 20 Fenchurch Street. These distant views are likely to be blocked by the unattractive buildings of the proposed development, yet the assessment describes the magnitude of change from these viewpoints as medium, to enable a conclusion that the effect is moderate.

The report suggests that the impact on 417 and 419 Wick Lane would be moderate. These properties are less than 100 metres from the closest part of the site. Most flats currently benefit from attractive park and city views across the site and have clear views across the city. These views are proposed to be replaced by heavy industrial buildings. The effect on these homeowners is clearly greater than medium.

This suggests that the TVIA is often overly conservative in both its assessment of townscape or visual receptor sensitivity, and its assessment of magnitude of change. As a result, it often underestimates the significance of the environmental effect of the proposed development.

Furthermore, townscape and visual impact assessment makes no reference to the United Asphalt plant, which is proposed to be located immediately adjacent to the River Lea, and is scoped out of the air quality effects statement because it is proposed to include a chimney stack tall enough to disperse pollutants sufficiently. A chimney of this size will have a visual impact, so it should either be included in the assessment of air quality impacts or visual impacts, or probably both.

1.0 Introduction

1.1 DPDS Consulting Group has been instructed to submit an objection on behalf of OPCRDC to the following proposed developments:

- A planning application by Hope Construction Materials (LLDC ref. 15/00368/FUL, validated on 27 July 2015) for *“Construction of a concrete batching plant, associated infrastructure, parking for staff and associated vehicles, weighbridge, ancillary modular office buildings and rail delivered aggregate facility and access road from Pudding Mill Lane”*;
- A planning application by S Walsh and Son Ltd (validated on 27 August 2015, LLDC ref. 15/00400/FUL) for *“...full planning permission for a concrete block manufacturing plant (incorporating offices), a ready-mix concrete plant and parking and storage areas with all aggregates delivered by rail and products exported via access to Marshgate Lane”*;
- A planning application by Brett Concrete Limited (LLDC ref. 15/00414/FUL, validated on 14 August 2015) *“... for full planning permission for the erection and use of a concrete batching plant and ancillary facilities with access from Marshgate Lane”*; and
- A fourth application currently being prepared for submission by United Asphalt for *“the erection and operation of a rail served asphalt plant with associated ancillary structures and facilities, car and HGV parking.”*

1.2 The crux of the objection is that both the proposed use and the failure to consult the local community conflict with the remit and policies of the London Legacy Development Corporation (LLDC), and that the determination process is flawed in that an Environmental Statement examining significant environmental effects has not been required or produced.

1.3 The objection sets out the OPCRDC’s case against the development proposals under the following headings:

- Conflict with LLDC’s overarching Remit, Purpose and Policies
- Conflict with LLDC’s Convergence Agenda and aims to raise aspirations, skills and income levels
- Conflict with LLDC’s Community Outreach Agenda
- Conflict with Local Planning Policy
- Conflict with Requirements for Environmental Impact Assessment
- The Adequacy of the Cumulative Effects Assessments.

1.4 On a point of clarification, while the various cumulative impact assessments appraised in this report relate to all four of the proposed developments and are very similar in each case, they are not identical. References relating to these assessments refer to the S Walsh and Sons application (15/00400/FUL). Where this reference is different for the other applications, this is specified in a footnote.

2.0 Conflict with the LLDC's Overarching Remit, Purpose and Policies

2.1 The remit of the LLDC is:

"To promote and deliver physical, social, economic and environmental regeneration in the Olympic Park and surrounding area, in particular by maximising the legacy of the London 2012 Games, by securing high-quality sustainable development and investment, ensuring the long-term success of the facilities and assets within its direct control and supporting and promoting the aim of convergence." (Mayor of London 2011)

2.2 Its purpose is:

"to use the once-in-a-lifetime opportunity of the London 2012 Games and the creation of Queen Elizabeth Olympic Park to develop a dynamic new heart for East London, creating opportunities for local people and driving innovation and growth in London and the UK."

2.3 The following priority themes underpin the LLDC's function:

- Promoting convergence and community participation

2.4 For the goal of convergence to be achieved, the Olympic Park legacy needs to be fully accessible for local people. This means ensuring the Park evolves with input from local residents, that economic opportunities are accessible to local people, businesses and social enterprises, and that sporting, cultural and leisure facilities and events in the Park can be used and enjoyed by local people at all income levels.

- Championing equalities and inclusion

2.5 The Park lies in one of the most diverse areas of the UK. In addition to statutory duties, the Corporation will take this diversity into account in order to attract the best talent, understand how its decisions impact different communities and groups, and to create and manage its estate in a way that capitalises on, and is accessible by, these diverse communities.

- Ensuring high quality design

2.6 Architectural, urban and landscape design will be essential elements for creating places that are engaging, safe, usable and beautiful, and which creates and maintains value over the long-term.

- Ensuring environmental sustainability

2.7 Establishing clear standards for environmental performance, and making the most of natural and built assets to meet the challenges posed by climate change mitigation and adaptation.

2.8 This representation will show that these proposals do not maximise the legacy of the Olympics because they do not represent high quality sustainable development, they do not promote convergence, and they do not represent high quality design.

3.0 Conflict with LLDC's Convergence Agenda and Aims to Raise Aspirations, Skills and Income Levels

3.1 The convergence agenda, proposed by the Host Boroughs and endorsed by the Government and the Mayor of London, is organised around the principle that:

"within 20 years the residents who will have hosted the world's biggest event will enjoy the same social and economic chances as their neighbours across London".

3.2 These proposals would result in an unattractive, polluting, heavy industrial use, to the extent that even the applicant suggests would be little more than a minor improvement to the current derelict brownfield site, whilst providing a handful of low skilled jobs in the centre of an area that the London Mayor describes in policy 2.4 of the adopted London Plan as *"London's single most important regeneration project for 25 years"* and where the LLDC's own socio-economic policy refers to a need to *"...raise aspirations, skills and income levels..."*.

3.3 In full, London Plan policy 2.4 reads:

*"The Mayor will work with and through the London Legacy Development Corporation to 'promote and **deliver physical, social, economic and environmental regeneration** of the Olympic Park and its surrounding area, in particular by maximising the legacy of the 2012 Olympic and Paralympic Games, by **securing high quality sustainable development** and investment, ensuring the long term success of the facilities and assets within its direct control and supporting and promoting the aim of convergence' and will seek to close the deprivation gap between the Olympic host boroughs and the rest of London. **This will be London's single most important regeneration project for the next 25 years.** It will sustain existing stable communities and promote local economic investment to create job opportunities (especially for young people), driven by community engagement"* (My emphasis added).

3.4 The relevant part of LLDC's socio-economic policy reads:

*"If east London is to live up to its potential as a prosperous place where people choose to live and stay, and not just somewhere that people leave once their circumstances improve, it requires a concerted and sustained effort on the part of a range of partners in the public, private and third sectors. In particular, the joint planning and delivery of a range of targeted interventions which **raise aspirations, skills and income levels, alongside the significant capital investment in new homes, commercial space, schools and community facilities will be critical**, if local people and businesses are to be ready to access new opportunities as they arise. Only by working as part of such a co-ordinated partnership, can we ensure that the Convergence objectives to create wealth and reduce poverty, support healthier lifestyles and develop successful neighbourhoods are realised and lasting change is achieved."* (My emphasis added).

3.5 The LLDC Local Plan Inspector considered the issue of convergence at paragraph 9 of his report:

"9.The Strategic Regeneration Framework 2009 by the host Boroughs for the Olympic and Paralympic Games [S/45], and the Greater London Authority's Olympic Legacy Supplementary Planning Guidance (SPG) 2012 [RP/5] both refer to London's Olympic bid and statement that: 'The most enduring legacy of the Olympics will be the regeneration of an entire community for the direct benefit of everyone who lives there.' The conditions for people who live in the area,

where there is acknowledged to be much deprivation, should improve so that they can enjoy the same social and economic conditions as Londoners as a whole. This is the principle of convergence and is referenced in the opening paragraph of section 04 of the Local Plan.”

- 3.6 If approved, these proposals would represent a missed opportunity to achieve these worthwhile aims and would fundamentally harm the legacy of the 2012 Olympics in a way that would be very difficult, if not impossible, to overcome.
- 3.7 It would conflict with overarching remit, purpose and policies of the LLDC, including the convergence agenda and its aims to raise aspirations, skills and income levels.

4.0 Conflict with LLDC's Community Outreach Agenda

4.1 The LLDC's engagement objectives for the area it is responsible for, as set out in its Community Engagement Policy, are to:

1. *"Develop a local sense of ownership and responsibility*
2. *Support successful community initiatives*
3. *Establish clear communication and information sharing*
4. *Enhance corporation social responsibility (internally and externally)*
5. *Develop strong relationships and lasting partnerships."*

4.2 The Community Engagement Policy explains that:

"In successful and safe places individuals take ownership of their surroundings and communities thrive. Working with existing and emerging communities will be vital to ensuring that old and new communities feel a sense of ownership and responsibility for the places being created in and around the future Queen Elizabeth Olympic Park."

4.3 The Policy also emphasises the importance of engagement and outreach over consultation, emphasising the importance of *"proactive and often intensive" "ongoing activity", and "a targeted approach aimed at reaching specific groups"*.

4.4 In terms of the statutory planning process, the LLDC's Statement of Community Involvement (March 2013) states that:

"4.2.2 Developers will be required to consult local communities before submitting planning applications for very large developments. This will give local people a chance to comment when there is still genuine scope to make changes to proposals. Proposals for consultation with the community should be discussed with the PPDT at an early stage."

4.5 No community consultation, let alone engagement or outreach, was undertaken for these applications before or after they were submitted, in clear conflict with both the Statement of Community Involvement and the LLDC's Community Engagement Policy.

5.0 Conflict with Local Planning Policy

5.1 The site is covered by policy B.1 of the LLDC's Local Plan 2015 to 2031 (adopted July 2015). This reads:

"Policy B.1: Location and maintenance of employment uses

B Use Classes shall be focussed according to type within the Employment Clusters shown in Table 2 and where identified within the Centres within Table 3. The employment function for each cluster and employment land outside the clusters shall be protected and developed through:

1. *Locating office uses within the centres and requiring impacts assessment where B1a office accommodation over 2,500 sqm is proposed outside Stratford Metropolitan Centre boundary*
2. *Ensuring new provision is flexible, meeting the needs of a wide range of end users, contains adequate access and servicing and has no conflict with immediate uses*
3. *Safeguarding land and buildings within Strategic Industrial Locations (SIL) for the balance of B Use Classes identified within Table 2 in density and floorspace*
4. *Only allowing proposals providing equivalent use, in density and floorspace, which maintain the existing balance of uses identified within Table 2 and meeting needs of small- and medium-sized businesses within the Locally Significant Industrial Sites (LSIS) and Other Industrial Locations (OIL)..."*

5.2 Table 2 refers to the site as B.1a3, defines it as a "Strategic Industrial Location (Preferred Industrial Location)" based on policy 2.17 of the London Plan, and defines the cluster function as:

"A safeguarded rail head and associated bulk freight distribution use. B2, B8 and waste management uses are appropriate. Only development supporting the rail-related and small-scale ancillary uses will be supported."

5.3 In determining this application, the LLDC is also obliged to consider the Local Plan's Strategic Policy SP.1: Building a strong and diverse economy, which reads:

"The Legacy Corporation will work with its partners to develop a strong local economy, driving the transformation of east London through:

1. *Expansion of opportunities for local, national and international business and promotion of cultural, tourist and leisure expansion*
2. *Supporting higher and further education expansion, including opportunities for postgraduate study and research, and promoting access to skills and employment training*
3. *Strengthening the local economic profile of the area, including support of flourishing business sectors and providing additional floorspace in a range of sizes, types and forms*
4. *Growth of the town centre economies through development of appropriate scale and use to each location and maximising opportunities for vibrant interim uses throughout the area."*

5.4 This is explained in paragraph 4.4 of the reasoned justification, which reads:

*“The employment clusters (Strategic Industrial Locations, Locally Significant Industrial Sites and Other Industrial Locations) currently foster a diverse range of employment opportunities, and are **key to the character and vibrancy of the area**. Opportunities for **enhancing the employment offer and mix** throughout the area will be utilised, including **promoting the creative, productive and cultural industries and social enterprise**. The area will become a **seat for learning**, drawing students from a great distance to east London but also facilitating the training and employment prospects of local people, which in turn generate local wealth. This policy will strengthen and build upon this base, **enabling economic expansion and diversification**. Queen Elizabeth Olympic Park will provide an interactive and smart experience, with more integrated approaches to building and technology enabling the digital economy to grow. This position is complemented by existing and new town centres generating local wealth and investment through agglomeration.”* (My emphasis added).

5.5 Additionally, the following Local Plan objectives and policies are material to the consideration of these planning applications:

“Objective 3: Create a high-quality built and natural environment that integrates new development with waterways, green space and the historic environment

This will mean that development will:

- *be **designed to respond to context***
- *utilise heritage assets to shape local identity*
- *incorporate the **highest standards of design and architecture***
- ***contribute to the green infrastructure network***
- *help meet the targets set out in Biodiversity Action Plans.”* (My emphasis added).

5.6 These proposals so not respond to the context of the area as a high intensity mixed use development, and the proposal does not represent the highest standard of design and architecture. The site is adjacent to the Jubilee Greenway and the River Lea, both of which are intended to provide attractive linear recreation routes through London and the local area. There can be little doubt that this proposal will not contribute to this important part of the green infrastructure network.

5.7 Objective 3 is reflected in local planning strategic policy, as follows:

“Strategic Policy SP.3: Integrating the natural, built and historic environment

*The Legacy Corporation will create a **high-quality built and natural environment** that integrates new development with waterways, green space and the historic environment, by ensuring development:*

1. *Gives primary consideration to the **creation of ‘place’***
2. ***Enhances its built, historic and landscape context***
3. *Maintains and promotes local distinctiveness*
4. *Protects biodiversity and provides green infrastructure networks where possible*
5. *Facilitates safe access for all to waterside and green environments*
6. ***Is at least air quality neutral and minimises impact from noise***
7. *Supports the delivery of the Sub Area priorities*
8. ***Respects the Legacy Corporation’s Design Quality Policy.”*** (My emphasis added).

5.8 Even the cumulative townscape and visual impacts assessment produced for the combined applications is unable to conclusively determine that the proposal would enhance the built, historic and landscape context; the air quality cumulative impact assessment is unable to conclude that the proposals are at least air quality neutral and, as noted above, the proposals do not represent the high quality design vision set out in the LLDC's Design Quality Policy in the following terms:

"The remarkable sporting venues will not only create a unique destination but will bring architectural distinction to East London. A key goal of the masterplan is to ensure that views to these buildings are framed and showcased from within the Park, while embedding them into new mixed-use neighbourhoods..."

"Attention to design at both the strategic and detailed scale is critical to the future of the Park."

"At its core, high quality design at Queen Elizabeth Olympic Park is about quality of life. It is about creating great homes, buildings and spaces using durable and appropriate materials. It is about creating new neighbourhoods that integrate seamlessly with the existing, inviting new and old communities into and through the Park – places where people want to stay. High quality design is an essential ingredient of long-lasting places that grow into healthy, safe and memorable neighbourhoods not only for visitors but also for locals."

5.9 And Objective 3 is reflected in local planning policy, as follows:

"Policy BN.11: Reducing noise and improving air quality

To contribute towards improving air quality and minimise the effect of noise on amenity, development proposals will be expected to:

1. *Be constructed and designed in a manner that **minimises emissions of pollutants to the air and public exposure to the adverse impact of noise***
2. *Demonstrate compliance with policies in this Local Plan and the London Plan which contribute to **minimising the effect of emissions and noise***
3. *Have appropriate regard to the relevant London Borough and the Mayor's Air Quality Strategies and the Mayor's Ambient Noise Strategy.*

Applications for major development proposals must include an air quality and noise assessment where they are located in areas identified in the most recent strategies and guidance as being significantly affected by poor air quality (by being adjacent to or within an Air Quality Management Area) or are likely to be adversely affected by noise pollution."
(My emphasis added)

"Policy BN.1: Responding to place

Proposals will be considered acceptable where they respond to place in accordance with the principles outlined below:

1. *Landscape and water: **relate well to the local area's defining natural and man-made landscape features, in particular the linear form of the waterways and parklands***
2. *Urban fabric: respect existing typologies, including those of heritage value, and **draw design cues from the form of the area** in terms of its layout (urban structure and grain) and scale (height and massing)*

3. *Architectural and historic context: **enhance the architectural and historic setting within which development is proposed.** Careful consideration should be given to architectural and historic style, materials, fenestration, colour, building orientation, datums and overall appearance*
4. *Connectivity: **ensure that new and existing places link to route networks and facilitate movement along direct, permeable, safe and legible pedestrian and cycle routes.** Routes should cater for the requirements of all users. Opportunities to connect areas to strategic road, rail, bus and cycle networks must be utilised*
5. *Infrastructure: make use of existing physical infrastructure to help overcome barriers to integration and to create new links and routes*
6. *Mix: **consider how proposed uses integrate with, and relate to, both public and private space.** Where new residential uses are introduced within a non-residential context, consideration must be given to layout, access, servicing and amenity*
7. *Amenity and wellbeing: **minimise impact within proposed and upon existing development, by preventing overshadowing, and an unacceptable provision/loss of sunlight, daylight or privacy.**" (My emphasis added).*

5.10 This proposal meets none of the highlighted policy requirements above. It does not relate well to the local area's defining features, namely the Olympic Park and ArcelorMittal Orbit, the Jubilee Greenway and the River Lea, and the attractive high intensity mixed use development that is being built around it; it does not enhance the area's setting; the impermeable nature of its layout and the proposed uses does not ensure linkages and its inter-relationship with the Jubilee Greenway and River Lea corridor will not facilitate movement along those routes; it does not integrate well with public and private space; and it does not minimise impact on proposed and existing developments.

5.11 The conclusion here is that, while it is accepted that the use of this site should meet a need for rail based freight distribution, it also needs to improve the character and vibrancy of the area, enhance the employment offer and mix and raise aspirations, skills and income levels in a way that reflects the status of the area as London's single most important regeneration project for 25 years. While the proposal may meet the former more functional requirements, it sorely fails to even come close to meeting the more aspirational vision and policy requirements for the area that the LLDC is responsible for delivering.

5.12 It is worth coming back to the LLDC's Socio-Economic Policy at this point, because it includes the following paragraph:

*"Parts of east London have too long been blighted with the problems associated with severe deprivation, such as poor housing, high crime and low quality public realm, as well as **low grade industry** and out-dated business premises. However, the eyes of the world will be on the Olympic Park and the Host Boroughs during the 2012 Games, and there will be a compelling story to tell about the **transformative change** already underway here, which will help to challenge negative perceptions, and encourage interest from potential future visitors, residents and inward investors."*

5.13 Introducing another group of low grade industrial uses to the area is not the way to achieve transformative change. Better alternatives to this proposal exist, and the LLDC should give itself the opportunity to test these alternatives before determining these planning applications.

5.14 This can be, and should have been, done through the Environmental Impact Assessment Process.

6.0 Conflict with Requirements for Environmental Impact Assessment

6.1 The legislative framework covering Environmental Impact Assessment is contained in *The Town and Country Planning (Environmental Impact Assessment) Regulations 2011*, as amended by *The Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015*.

6.2 This is summarised in Planning Practice Guidance (PPG).

6.3 Paragraph: 017 Reference ID: 4-017-20140306 of the PPG explains when an EIA is required:

“When is Environmental Impact Assessment required?”

If a proposed project is listed in the first column in Schedule 2 and exceeds the relevant thresholds or criteria set out in the second column (sometimes referred to as ‘exclusion thresholds and criteria’) the proposal needs to be screened by the local planning authority to determine whether significant effects are likely and hence whether an assessment is required.”

6.4 Schedule 2, at part 10, as amended in 2015, includes:

<i>Column 1</i> <i>Description of development</i>	<i>Column 2</i> <i>Applicable thresholds and criteria</i>
<i>10. Infrastructure Projects</i>	
<i>(a) industrial estate development projects;</i>	<i>The area of the development exceeds 5 hectares.</i>
<i>(b) Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas;</i>	<i>(i) The development includes more than 1 hectare of urban development which is not dwellinghouse development; or (ii) the development includes more than 150 dwellings; or (iii) the overall area of the development exceeds 5 hectares.</i>
<i>(c) Construction of intermodal transshipment facilities and of intermodal terminals (unless included in Schedule 1);</i>	<i>The area of the development exceeds 0.5 hectare.</i>

6.5 The site area of each application so far submitted is as follows:

- Hope Construction Materials application (LLDC reference 15/00368/FUL) – site area = 1.54 hectares;

- S Walsh and Sons application (LLDC reference 15/00400/FUL) – site area = 3.2 hectares; and
- Brett Concrete application (LLDC reference 15/00414/FUL) – site area = 0.48 hectares.

6.6 In combination these applications total 5.22 hectares.

6.7 We would argue that each of these proposals falls within the column 1 definitions under 10 (a), (b) and (c) above. In terms of the applicable thresholds in column 2 our assessment is as follows:

<i>Column 1</i> <i>Description of development</i>	<i>Column 2</i> <i>Applicable thresholds and criteria</i>	Applications that meet the description and applicable thresholds
<i>10. Infrastructure Projects</i>		
<i>(a) industrial estate development projects;</i>	<i>The area of the development exceeds 5 hectares.</i>	The three applications in combination trigger criterion (iii)
<i>(b) Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas;</i>	<i>(i) The development includes more than 1 hectare of urban development which is not dwellinghouse development; or (ii) the development includes more than 150 dwellings; or (iii) the overall area of the development exceeds 5 hectares.</i>	15/00368/FUL and 15/00400/FUL trigger criterion (i); The three applications in combination trigger criterion (iii)
<i>(c) Construction of intermodal transshipment facilities and of intermodal terminals (unless included in Schedule 1);</i>	<i>The area of the development exceeds 0.5 hectare.</i>	15/00368/FUL and 15/00400/FUL trigger criterion; The three applications in combination trigger criterion

6.8 On that basis, the S Walsh and Sons Ltd application (ref: 15/00400/FUL) and the Hope application (ref: 15/00368/FUL) have been formally screened out of EIA (under refs: 15/00179/SCRES and 15/00230/SCRES respectively) and the smaller Brett Concrete Ltd

Application has been informally screened out of EIA. A response to a further screening opinion for the proposed United Asphalt plant (Ref: 16/00194/SCRES) is pending.

- 6.9 However, these applications should not have been considered in isolation based on the advice contained in Paragraph: 025 Reference ID: 4-025-20140306 of the PPG:

“How should multiple applications be treated?”

An application should not be considered in isolation if, in reality, it is an integral part of a more substantial development (Judgment in the case of R v Swale BC ex parte RSPB [1991] 1PLR 6). In such cases, the need for Environmental Impact Assessment must be considered in the context of the whole development. In other cases, it is appropriate to establish whether each of the proposed developments could proceed independently (Candlish [2005] EWHC 1539; Baker [2009] EWHC 595).”

- 6.10 It is clear that these developments are each an integral part of a more substantial development. The site of all four proposals is in single ownership, and that owner, DB Cargo (UK), will bring in the raw materials needed for each of the proposals; the applications have been submitted in a co-ordinated manner; and they all rely on the same reworked access from Marshgate Lane. On that basis, *“the need for EIA must be considered in the context of the whole development.”*

- 6.11 There is also a strong argument for referring the applications formally to the Mayor of London under *The Town and Country Planning (Mayor of London) Order 2008* as an application of Potential Strategic Importance. It would appear that this was not done.

- 6.12 In considering whether an EIA should have been required it is worthwhile to consider the purpose of EIA. This is explained in Paragraph: 002 Reference ID: 4-002-20140306 of the PPG:

“What is the purpose of Environmental Impact Assessment?”

*The aim of Environmental Impact Assessment is **to protect the environment by ensuring that a local planning authority when deciding whether to grant planning permission for a project, which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects, and takes this into account in the decision making process.** The regulations set out a procedure for identifying those projects which should be subject to an Environmental Impact Assessment, and for assessing, consulting and coming to a decision on those projects which are likely to have significant environmental effects.*

*The aim of Environmental Impact Assessment is also **to ensure that the public are given early and effective opportunities to participate in the decision making procedures.**”* (My emphasis added).

- 6.13 So the decision about whether or not an EIA should have been required by the LLDC should have been informed by a need to ensure that the LLDC fully understood the likely significant effects, and that the public were given the opportunity to participate in the decision making process. This representation has already referred to the lack of community consultation undertaken, and will come back to the issue of the likely significant effects later.

- 6.14 The selection criteria for screening schedule 2 development is elaborated upon, informally, in PPG Paragraph: 058 Reference ID: 4-058-20150326.

<i>Development type</i>	<i>Schedule 2 criteria and thresholds</i>	<i>Indicative criteria and threshold</i>	<i>Key issues to consider</i>
10. INFRASTRUCTURE PROJECTS			
<i>(a) Industrial estate development projects;</i>	<i>The area of the development exceeds 5 hectares.</i>	<i>Site area of the new development is more than 20 hectares.</i>	<i>Potential increase in traffic, emissions and noise.</i>
<i>(b) Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas;</i>	<p><i>(i) The development includes more than 1 hectare of urban development which is not dwellinghouse development; or</i></p> <p><i>(ii) the development includes more than 150 dwellings; or</i></p> <p><i>(iii) the overall area of the development exceeds 5 hectares.</i></p>	<p><i>Environmental Impact Assessment is unlikely to be required for the redevelopment of land unless the new development is on a significantly greater scale than the previous use, or the types of impact are of a markedly different nature or there is a high level of contamination.</i></p> <p><i>Sites which have not previously been intensively developed:</i></p> <p><i>(i) area of the scheme is more than 5 hectares; or</i></p> <p><i>(ii) it would provide a total of more than 10,000m² of new commercial floorspace; or</i></p> <p><i>(iii) development would have significant urbanising effects in a previously non-urbanised area (e.g.</i></p>	<i>Physical scale of such developments, potential increase in traffic, emissions and noise.</i>

<i>Development type</i>	<i>Schedule 2 criteria and thresholds</i>	<i>Indicative criteria and threshold</i>	<i>Key issues to consider</i>
		<i>a new development of more than 1,000 dwellings).</i>	
<i>(c) Construction of intermodal transshipment facilities and of intermodal terminals (unless included in Schedule 1);</i>	<i>The area of the development exceeds 0.5 hectare.</i>	<i>Developments of more than five hectares.</i>	<i>Physical scale of the development, increased traffic, noise, emissions to air and water.</i>

6.15 In general terms, these criteria suggest that EIA might be needed for development that falls under the heading infrastructure projects if development is larger than 5 hectares and if the increase in traffic, noise and emissions warrants it.

6.16 In the case of these proposals, which should be considered as a single development for the purposes of EIA, the site area is greater than 5 hectares even without the pending United Asphalt proposal, and the increase in traffic, noise and emissions compared to the current vacant site undoubtedly warrants an EIA.

6.17 In terms of the content of an EIA, paragraph: 035 Reference ID: 4-035-20140306 of the PPG sets out:

“What information should the Environmental Statement contain?”

There is no statutory provision as to the form of an Environmental Statement. However, it must contain the information specified in Part II of Schedule 4, and such of the relevant information in Part I of the Schedule 4 as is reasonably required to assess the effects of the project and which the applicant can reasonably be required to compile. It may consist of one or more documents, but it must constitute a “single and accessible compilation of the relevant environmental information and the summary in non-technical language” (Berkeley v SSETR [2000] 3 All ER 897, 908).”

6.18 Part 1 of Schedule 4 includes:

“2. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects.

3. *A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.*
4. *A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from—*
 - (a) the existence of the development;*
 - (b) the use of natural resources;*
 - (c) the emission of pollutants, the creation of nuisances and the elimination of waste,*

and the description by the applicant or appellant of the forecasting methods used to assess the effects on the environment.
5. *A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.*
6. *A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.”*

6.19 Part 2 of Schedule 4 includes:

- “2. A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.*
4. *An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects.*
5. *A non-technical summary of the information provided under paragraphs 1 to 4 of this Part.”*

6.20 No non-technical summary, nor any assessment of alternative developments has been provided by the applicant. Alternatives clearly exist that would meet local planning policy requirements to retain and utilise the railhead and to use the site for industrial development, and provide a capital return and ongoing trade and income for the landowner, DB Cargo (UK), whilst resulting in fewer adverse environmental effects. A full EIA, setting out and assessing these alternatives, would have enabled the LLDC to consider the proposals in the full knowledge of the likely significant environmental effects.

6.21 Such alternatives might include using the site for industrial scale materials recycling, utilising the railhead to import/export waste materials and to transform those materials into useful products. If this was contained within well-designed buildings it could enhance the area’s reputation.

6.22 Alternatively, the site could be used as an intermodal freight terminal. Freight would be brought into London by rail, hence reducing road based freight movements nationwide, and transferred

to road for local distribution via distribution centres operated by organisations such as Amazon, haulage companies such as DHL or the Royal Mail, or the larger retailers. This would respond to the ever increasing volume of goods bought and sold on the internet, so would reflect the expanding digital economy referred to in paragraph 4.4 of the local plan.

- 6.23 LLDC's decision to screen out EIA for these proposals was flawed, as much as anything because it does not enable these alternative uses to be considered. Since making its screening opinion, the LLDC has attempted to remedy the situation by requesting a cumulative assessment of a number of environmental effects. However, this is procedurally inadequate because it will not enable the LLDC to make a decision on these proposals with reference to any alternatives, nor *"in the full knowledge of the likely significant effects"*, as demonstrated in the next section.

7.0 The Adequacy of the Cumulative Effects Assessments

7.1 The LLDC has requested an assessment of cumulative effects in relation to the following environmental factors:

- Traffic and Transport;
- Noise and Vibration;
- Air Quality and Dust; and
- Townscape and Visual Impact.

7.2 This has resulted in the applicants and landowner producing five cumulative effects assessments, the latest versions of which are:

- Cumulative Effects Report, Barton Willmore, April 2016
- Cumulative Impact Traffic Assessment: Transport Statement, Cannon Consulting Engineers, April 2016
- Cumulative Noise Impact Assessment, RPS, July 2016
- Air Quality Cumulative Effects Assessment, RPS, July 2016
- Cumulative Effects Report: Townscape and Visual Impacts, Pegasus, April 2016

7.3 This section assesses these reports in terms of their adequacy in meeting the requirements of Schedule 4 of the EIA Regulations, and in enabling the LLDC to consider the proposals in the full knowledge of likely significant effects.

Cumulative Effects Report, Barton Willmore, April 2016

7.4 The Cumulative Effects Report purports to provide a summary of the cumulative effects found in the remaining four topic based cumulative effects reports, however a good deal of the report focusses on assessing the proposals against the local planning policy context.

7.5 This representation explains above how the proposed uses fail to meet the more aspirational vision and policy requirements for the area that the LLDC is responsible for delivering.

7.6 However, with specific reference to the planning policy context section of the Barton Willmore report, it is worth noting its reference to paragraph 143 of the National Planning Policy Framework that explains how Local Plans should deal with “*Facilitating the sustainable use of materials*”. The Barton Willmore report correctly refers to the importance of safeguarding rail heads and providing land for concrete batching plants referred to in this paragraph of the NPPF, but is it also noteworthy that Barton Willmore omitted to refer to the following section of the same NPPF paragraph, which explains that Local Plans should:

“... set out environmental criteria, in line with the policies in this Framework, against which planning applications will be assessed so as to ensure that permitted operations do not have unacceptable adverse impacts on the natural and historic environment or human health, including from noise, dust, visual intrusion, traffic, tip- and quarry-slope stability, differential settlement of quarry backfill, mining subsidence, increased flood risk, impacts on the flow and quantity of surface and groundwater and migration of contamination from the site; and take

into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality;

7.7 The LLDC has set out these environmental criteria, in objective 3, SP.3, BN.1 and BN.11, and the analysis above shows that the proposals fail to meet these criteria.

7.8 However, this section of the representation focusses on the last highlighted text in paragraph 143, that refers to the need to take account of the cumulative effects of multiple impacts of the proposals.

7.9 As explained above, the key criticism of the cumulative environmental effects work undertaken to inform the LLDC's decision about these applications is that this report does not consider alternatives to the proposed use. It simply takes on board the conclusions of the constituent reports and concludes that:

"... cumulative primary environmental effects are expected to be acceptable in the context of the Site and surroundings."

And that:

"... no significant secondary environmental effects have been identified as a result of the Bow East Goods Yard Schemes."

7.10 However, as set out below, the constituent cumulative effects reports are overly optimistic and/or flawed, and are insufficient to enable the LLDC to come to a decision about the applications in the full knowledge of the likely significant environmental effects.

7.11 It is also worth noting at this point that the Barton Willmore report refers to paragraph 13.8 of the Mayor of London's *Land for Industry and Transport Supplementary Planning Guidance* (adopted September 2012), which discusses aggregate bulk handling under the heading "*Railheads for the aggregate industry*". However, the previous section of the document is entitled "*Rail freight*", and includes the following guidance:

"13.10 The Government believes that an expanded network of Strategic Rail Freight Interchanges (SRFI), complemented by other freight interchanges and terminals, is needed to support longer-term development of efficient rail freight distribution logistics. Whilst SRFIs operate to serve regional and cross regional catchment areas, they are also key components in national and international networks. The development of SFRI is vital for growing rail freight and in ensuring UK businesses have access to robust and efficient supply chains. Such facilities also generate large numbers of jobs, both during construction and in operation. The NPPF (paragraph 31) recognises the important role of rail freight interchanges as part of a viable infrastructure necessary to support sustainable development.

13.11 SRFI are particularly important to the efficient and sustainable operation of the logistics sector in London and the south east of England. London Plan Policy 6.15 supports the provision of SFRI to enable modal shift from road to rail, and to enable the potential of the Channel Tunnel Rail Link to be exploited.

13.12 SRFI require good access by rail and road and sufficient land to accommodate associated warehousing and loading/unloading facilities...

13.13 *The availability of local terminal sites in central, inner and outer London is also crucial to rail freight mode share. Road and rail access, and land availability, all constrain the number of existing and potential sites and all suitable sites should be protected if they remain viable for rail-related use.”*

7.12 As noted above, a well-designed inter-modal freight terminal is one potential alternative use for the site that would better meet the vision for the area. It may or may not be the best alternative for the site but, without an assessment of alternatives in the cumulative impact assessment, the LLDC is unable to adequately assess the significant effects of the proposals before it against alternatives, so it is not in a position to determine the applications.

Cumulative Impact Traffic Assessment: Transport Statement, Cannon Consulting Engineers, April 2016

7.13 The Cumulative Traffic Impact Assessment was based on Traffic Surveys and automatic traffic counts undertaken in May 2015.

7.14 Paragraph 2.7 explains that:

“... It should be noted that on the dates that the Traffic Surveys were undertaken, a number of roads in the vicinity of the site were closed to through traffic and as such, the traffic data that was recorded, along Marshgate Lane in particular, will be less than expected on a ‘typical’ day. The resultant impact of the substantial construction activity observed on the site visit, is also expected to have an influence on observed traffic movements at the junction of Marshgate Lane with the A118 High Street junction and could even have an impact on the A118 High Street, dependant on the maximum level of construction activity associated with the cumulative development(s).”

7.15 The Traffic Survey results contained in diagrams 1 to 4 of this report all show no left turn movements from Marshgate Lane into Loop Road and no right turn movements from Loop Road into Marshgate Lane.

7.16 At paragraph 2.3 the report refers to a site visit in June 2015 where “*Marshgate Lane was effectively a ‘dead end’*” owing to further road closures.

7.17 The issue here is that the traffic movements were observed on a day when no traffic was able to use the Western half of Loop Road, and that these flawed observations were then used as a basis for forecasting future traffic movements. This flaw was then compounded because they were then used to inform forecasts of noise and air pollution levels in the respective cumulative assessments. Without an adequate baseline, it is difficult to understand how the cumulative assessments are able to come to any robust conclusions about likely significant environmental effects.

7.18 Furthermore, section 4.0 of the Cannon report explains that the forecast traffic flows for an ultimate scenario that includes neighbouring developments includes traffic volumes where these are set out in the application’s transport assessment. However, where volumes were not included, volumes were factored up by TEMPRO growth factors. This includes the application to transform the Olympic Stadium into a 60,000 seat stadium for West Ham United, and a new primary/secondary school and sixth form college. TEMPRO growth factors are based on projected increases in dwellings and jobs; they exclude leisure and education uses, so these developments will not be included in the traffic forecasts.

7.19 Traffic volumes from the proposed developments are summarised in paragraphs 4.21 to 4.49. In very simple terms, the total daily movements from each appear to be:

- Brett Concrete Ltd – potentially 250 HGVs and 56 staff car movements
- Hope Construction Materials Ltd – 188.2 HGV and 60 staff car movements
- S Walsh and Sons – 100 HGV and 40 staff car movements
- Ready mix concrete – 120 HGV and 64 staff car movements
- Totals – potentially 650 HGVs and 220 staff car movements, i.e. 870 movements per day

7.20 The increase in traffic volumes overall, and particularly in HGV volumes, travelling south along Marshgate Lane, as set out in table 5.1, and reiterated in paragraph 5.14, is described as “*substantial*”. However, the report later concludes, at paragraph 5.14 that, when compared with the low baseline traffic volumes, “*it is not considered that the overall increase in total traffic flows would have a particularly onerous detrimental effect on each criteria due to the low level of background traffic levels*”.

7.21 In other words, both the baseline and the 2026 forecast exclude traffic generated by other development proposals (the “*cumulative developments*”). The developments proposed in the three applications will cause a 144.5% increase in overall traffic and a 330.5% increase in HGV traffic on Marshgate Lane southbound, yet because the baseline is low, the assessment suggests that the “*detrimental effect ... is not ... particularly onerous*”.

7.22 However, when the implications of this increased traffic is considered on the A118 High Street and Marshgate Lane junction (in section 6.0 and table 6.4), the assessment concludes that the degree of saturation of the Marshgate Lane arm is 103.8% and of the A118 High Street slip road arm is 103.1%.

7.23 Paragraph 6.11 notes that:

“For clarity, a junction is generally considered to be reaching capacity when the degree of saturation (DoS) is in the order of 85%. After this point, the operation of the junction is considered to be reaching capacity as daily fluctuations in traffic flow could cause the DoS to reach 100%, i.e. theoretical capacity, which would generally cause excessive queueing and delay at the junction.”

7.24 This degree of saturation modelling for the junction includes cumulative traffic as well as development traffic. It suggest that severe queueing will result, including a high proportion of HGVs, which are known to produce harmful particulate material of the kind that has led to the area being declared an Air Quality Management Area. Yet in this scenario, the assessment concludes that “*the impact of this level of traffic is not considered to be severe, nor will it have a material effect on the operation of the network*”.

7.25 In fact, the conclusion of this analysis can be reinterpreted to say that the proposed developments cause a substantial increase in traffic compared to today’s baseline, and that this additional traffic, which consists predominantly of HGV traffic, will need to queue for some time at an overly congested junction. This queueing will exacerbate existing air quality issues in the area.

Cumulative Noise Impact Assessment, RPS, July 2016

- 7.26 Section 4 of this report assesses the noise impacts of the development proposals on local noise sensitive receptors listed in section 3.
- 7.27 Paragraphs 4.23 onwards assess the impact of the noise caused by the proposed development on the noise sensitive receptors, based on a procedure set out in BS4142:2014.
- 7.28 BS4142 works on the basis of measuring the *background* noise, without the development, measuring, or presumably estimating in this case, the *ambient* noise, with the development, and subtracting the *residual* from the *ambient* to give the *specific* noise level from the proposed development.
- 7.29 If the *specific* noise is, or in this case is likely to be, tonal, impulsive or irregular enough to attract attention, then the *specific* noise level is adjusted to produce a *rating* level.
- 7.30 Then, if the *rating* level exceeds the *background* level by around 10dBA or more, then this is likely to indicate a significant adverse impact. A difference of around 5dBA indicates an adverse impact, and then the lower the difference, the less likely it is that an adverse impact will result.
- 7.31 The issue with the cumulative noise assessment in this case is that the rating noise level is concluded, in paragraph 4.24, to be the same as the specific noise level because:
- “It is not expected that the noise from the plant on any of the sites will be tonal or impulsive. Furthermore due to the quanta of plant modelled, the level of sound generated by any individual item of plant is not sufficient for it to be readily distinctive, or distinctive enough to attract attention. Therefore no character correction has been applied to the specific sound level which becomes the rating level of noise from the plant in this case.”*
- 7.32 If we exclude the arrival and departure of freight trains, it seems likely that the main noise sources from the concrete batching plants would include loading wet cement into cement mixer HGVs, loading concrete blocks onto HGVs with fork lifts, and in the process reversing HGVs and forklifts.
- 7.33 These sources, which it is noted will include potentially 650 HGVs moving back and forth with reversing warnings each day, including at night, must be *“readily distinctive”*, so it is difficult to understand why the specific noise level of these sources was not adjusted to a higher rating level.
- 7.34 The cumulative noise assessment concludes that there are a number of noise sensitive receptors that will experience an additional 3 or 4 dBA as a result of the development. This means that the decision not to adjust the *specific* noise levels with regard to tonality, impulse, or irregularity is key to the conclusion that there is no adverse impact. The LLDC must understand the rationale behind this fully before coming to a conclusion on noise impact of the proposals.
- 7.35 Daytime external sound levels at the noise sensitive receptors are assessed in paragraphs 4.40 to 4.42.
- 7.36 Tables 4.5 and 4.6 set out the predicted external noise levels at the noise sensitive receptors during the day time and at night. During the day these levels range from 54 dB to 68 dB, with all but one of the nine receptors being at or above 55 dB. During the night, these levels range from 52 dB to 64 dB.

7.37 Significantly, paragraph 4.42 explains that:

“According to the guidance in BS 8233:2014 for traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50 dB LAeq,T, with an upper guideline value of 55 dB LAeq,T which would be acceptable in noisier environments. It is also noted in BS 8233:2014 that these guideline values are not achievable in all circumstances where development might be desirable, particularly in higher noise areas, such as city centres or urban areas adjoining the strategic transport network. With this in mind, and with the considerations made in the above paragraphs, levels that slightly exceed the upper guideline value in BS 8233:2014 should be acceptable in this case.”

7.38 In other words, even though BS8233:2014 makes an exception to the normal maximum of 50 dB to take account of noisier environments, and in this situation accepts that 55 dB might be acceptable, the report is suggesting that in this particular noisier environment levels of up to 68 dB are still acceptable.

7.39 Paragraphs 4.34 to 4.39 deal with internal sound levels within the receptors. These conclude that the receptors will all have double glazed windows, and that these will need to be closed at all times.

7.40 In this regard it is worth referring back to paragraph 2.4 of the RPS report, which reads:

*“The PPG describes noise that is not noticeable to be at levels below the NOEL (No Observable Effect Level). Noise exposures in this range are below the LOAEL (Low Observable Adverse Effect Level) and need no mitigation. The PPG suggests that noise exposures above the LOAEL cause small changes in behaviour. An example of noise exposures above the LOAEL provided in the PPG is having to turn up the volume on the television; needing to speak more loudly to be heard; or, where there is no alternative ventilation, closing windows for some of the time because of the noise. In line with the NPPF and NPSE, PPG states that consideration needs to be given to mitigating and minimising effects above the LOAEL but also to taking account of the economic and social benefits being derived from the activity causing the noise. The PPG suggests that noise exposures above the SOAEL (Significant Observable Adverse Effect Level) cause material changes in behaviour. **An example of noise exposures above the SOAEL provided in the PPG are, where there is no alternative ventilation, keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. In line with the NPPF and NPSE, the PPG states that effects above the SOAEL should be avoided and that whilst the economic and social benefits derived from the activity causing the noise must be taken into account, such exposures are undesirable.**” (My emphasis added).*

7.41 On this basis, to conclude that the external and internal noise levels at the noise sensitive receptors are anything other than a Significant Observable Adverse Effect is misleading at the very least.

7.42 Finally, the chosen noise sensitive receptors exclude specific reference to the Jubilee Greenway, which is adjacent to the site and along which pedestrians and cyclists are encouraged to walk or cycle. However, the Jubilee Greenway is used as a proxy location for noise sensitive receptor *Location OB: Iceland Road (off Wick Lane)*. Daytime noise levels at this receptor are forecast to be 55 dB, which is on the borderline of acceptability in noisier environments, according to BS8233:2014.

Air Quality Cumulative Effects Assessment, RPS, July 2016

- 7.43 Before reviewing the Air Quality Cumulative Effects Assessment, it is worth noting the air quality context for the area. Air Quality Management Areas have been declared for London Boroughs of Tower Hamlets and Newham because of current exceedances of UK Air Strategy maximum concentrations of PM₁₀ and NO₂.
- 7.44 The Tower Hamlets AQMA covers the whole of the Borough; the Newham AQMA currently covers major roads only, but this is due to be extended to the whole of the Borough in the near future.
- 7.45 The development site lies within Newham, but many of the larger roads likely to be affected by the proposals, including the A12, lie within Tower Hamlets.
- 7.46 As a result of the PM₁₀ issue locally, the Environment Agency recommends full enclosure of all aggregate storage and waste management facilities in order to respond to these problems. This is not proposed so it would seem reasonable to assume that the proposals will exacerbate existing PM₁₀ problems.
- 7.47 The cumulative impact assessment deals with the impact of traffic and dust on air quality. The former is modelled; the impact of the latter is based on acceptance criteria. In both cases, the report concludes that the effect of the proposals on PM₁₀ dust and NO₂ is not significant.
- 7.48 However, paragraph 2.19 of the report notes that:

“The key policy relating to air quality is Policy 7.14: Improving Air Quality:

“Strategic

- A. *The Mayor recognises the importance of tackling air pollution and improving air quality to London’s development and the health and well-being of its people. He will work with strategic partners to ensure that the spatial, climate change, transport and design policies of this plan support implementation of his Air Quality and Transport strategies to achieve reductions in pollutant emissions and minimise public exposure to pollution.*

Planning decisions

B. *Development proposals should:*

- a. ***minimise increased exposure to existing poor air quality and make provision to address local problems of air quality (particularly within Air Quality Management Areas (AQMAs) and where development is likely to be used by large numbers of those particularly vulnerable to poor air quality, such as children or older people) such as by design solutions, buffer zones or steps to promote greater use of sustainable transport modes through travel plans (see Policy 6.3)***
- b. *promote sustainable design and construction to reduce emissions from the demolition and construction of buildings following the best practice guidance in the GLA and London Councils’ ‘The control of dust and emissions from construction and demolition’*

c. ***be at least ‘air quality neutral’ and not lead to further deterioration of existing poor air quality (such as areas designated as Air Quality Management Areas (AQMAs))***

d. *ensure that where provision needs to be made to reduce emissions from a development, this is usually made on-site. Where it can be demonstrated that on-site provision is impractical or inappropriate, and that it is possible to put in place measures having clearly demonstrated equivalent air quality benefits, planning obligations or planning conditions should be used as appropriate to ensure this, whether on a scheme by scheme basis or through joint area-based approaches*

e. *where the development requires a detailed air quality assessment and biomass boilers are included, the assessment should forecast pollutant concentrations. Permission should only be granted if no adverse air quality impacts from the biomass boiler are identified.” (My emphasis added).*

7.49 The Cumulative Dust Effects Assessment at section 5 does not, in fact, come to any conclusions about the impact that the proposed development will have on air borne dust. It simply concludes that any construction related dust can be managed by a Construction Environmental Management Plan, and any operation related dust can be managed by a Dust Management Plan.

7.50 On that basis, it is not possible for the LLDC to judge whether the proposal is “*air quality neutral*” in the context of policy 7.14 of the London Plan, so the cumulative dust effects assessment is inadequate.

7.51 The Cumulative Operational Traffic Emission Assessment at section 6 uses Cannon’s traffic data to model air quality impacts with and without development at 2016. As set out above, Cannon’s baseline traffic movements data is flawed because traffic counts were undertaken on a day when part of Loop Road was inaccessible. If the input data to the air quality modelling is flawed, then the air quality modelling outputs must be questionable.

7.52 In any event, tables 6.1 and 6.3 show that development causes NO₂ levels to worsen at every receptor, with or without the cumulative development. This means that the proposals conflict with policy 7.14 of the London Plan because they undoubtedly worsen an air quality problem already serious enough for the area to be declared an Air Quality Management Area.

7.53 In the scenarios with the development, but without and with the cumulative development respectively, paragraphs 6.3 and 6.11 conclude that:

“When the magnitude of change is considered in the context of the absolute concentrations, the impact descriptor ranges from ‘negligible’ to ‘slight adverse’” without cumulative development.

“When the magnitude of change is considered in the context of the absolute concentrations, the impact descriptor ranges from ‘negligible’ to ‘substantial adverse’” with cumulative development.

7.54 The conclusions at paragraph 6.23 and 6.24 suggest that, because the air quality locally is so bad that an AQMA needs to be declared, a given absolute increase results in a lower relative increase, and that it is this relative increase that justifies the conclusion that the effect is not significant. In the context of aims to reduce levels of air pollution in AQMAs, this is illogical.

7.55 Finally, it is worth noting paragraph 3.5 of the Assessment, which reads:

“Based on the assessment work currently being undertaken for the forthcoming United Asphalt Ltd (UA) application, we have scoped out the need to consider the cumulative impacts from point source combustion sources (i.e. stacks). The UA facility is the only operation which would include combustion sources at the Bow East Goods Yard Application Site. Any existing combustion point sources outside of the study area are quantified within the background. The potential for significant cumulative effects has been scoped out on the basis of the following information provided by UA’s air quality consultant, Ramboll Environ:

“The UA facility would generate emissions of oxides of nitrogen and particulates from the combustion process to heat the asphalt during the production process. These emissions would be released from a raised stack sized appropriately to ensure adequate dispersion.”

7.56 The height of the stack is not specified, but it is assumed that it would need to be of a substantial height for the outputs from it to be scoped out of the air quality assessment. On that basis, it will have significant townscape impacts. In other words, at least one or other of its air quality or its townscape impacts should be assessed. In fact, neither has been done.

Cumulative Effects Report: Townscape and Visual Impacts, Pegasus, April 2016

7.57 The TVIA follows a standard procedure set out in the *Guidelines for Landscape and Visual Impact Assessment, Third Edition*, Landscape Institute and IEMA, 2013. This involves determining the susceptibility, or sensitivity, of the landscape to change, assessing the magnitude of change that will result from the development, and concluding with the significance of the effect based on a combination of the two.

7.58 The baseline assessment of the site area and its immediate environs concludes, in paragraph 3.21, that:

“The Pudding Mill area includes the Development Site and area to the southeast beyond the raised embankments of the Dockland Light Railway and proposed Crossrail line. The Development Site is identified as a ‘safeguarded rail site’ in the LLDC Local Plan, in line with the Bow West and the southern sector of Fish Island. Building construction should be mostly below 21 metres above ground level, as recommended in the Planning Inspector’s report (July 2015). The overriding impression of the setting to the Development Site is one of ongoing change and multiple, overlapping and disassociated land uses.”

7.59 In passing, it is worth questioning at this point whether the United Asphalt stack will be lower or higher than 21 metres, and to consider whether this would have either air quality or townscape impacts, or both.

7.60 Paragraph 3.23 explains that the baseline is based on this current townscape, although it accepts that the area will undergo substantial change in the next 15-20 years, so the comparator baseline will also change over time.

7.61 In terms of the townscape, the assessment covers three character areas:

- Mixed-Use Industrial and Commercial Character Area
- Queen Elizabeth Olympic Park
- Emerging New Urban Neighbourhoods

- 7.62 For the Mixed-Use Industrial and Commercial Character Area, in which the site is located, the assessment concludes that the area has a low sensitivity to change, and that the magnitude of change would be very low to negligible, resulting in a minor effect on townscape.
- 7.63 Paragraph 8.7 notes that:
- “The character of the Development Site will remain in urban industrial use, although the volume of permanent built structures will increase. This will return the character of the Development Site to its pre-Olympics condition... It will appear less of a derelict brownfield site and more of an active and operational employment facility. On completion, the Development would bring about a low magnitude of change to the character of the site itself...”*
- 7.64 Paragraph 8.10 notes that:
- “The effects identified constitute a balance of beneficial and adverse impacts. It would be inappropriate to describe the effects as entirely beneficial as the change will not fundamentally alter the character of the Development Site or bring about any notable transformation of an industrial zone but there will be some improvements to the boundary treatment, its appearance and the perception of it, which will become a more formalised and active employment facility within a historically industrial employment zone, will be improved. Within the Mixed-use Industrial and Commercial character area the beneficial effects outlined above will marginally outweigh the adverse effects resulting from the Development. In any case the effects will be minor.”*
- 7.65 So, in summary, the site currently has the appearance of a “derelict brownfield site”, yet the townscape effects of the proposed redevelopment “constitute a balance of beneficial and adverse impacts”, and “in any case the effects will be minor”.
- 7.66 When this is compared with the aims and objectives of the LLDC for the Olympic Park this level of, perhaps, improvement, seems underwhelming. Alternative uses will surely result in clearer townscape benefits for the site, and should be considered.
- 7.67 Paragraph 4.11 of the *Guidelines for Landscape and Visual Impact Assessment, Third Edition*, Landscape Institute and IEMA, 2013, on which this TVIA is based, in fact advises a consideration of alternatives:
- “It is not a requirement that alternatives should be identified and considered. However, if they have been (and it is considered that they should be, as a means of achieving sustainable development) then an outline description should be provided of any alternatives considered...”* (My emphasis added).
- 7.68 The Queen Elizabeth Olympic Park Character Area is determined to have a high sensitivity to change, and the magnitude of change is determined to be low to medium, so the overall effect is minor/moderate.
- 7.69 However, the report explains that the magnitude of change will be mitigated by the Jubilee Greenway and new buildings to be built to the south of the Olympic Stadium. The visual impact of the proposals on the Jubilee Greenway is dealt with later, but again, alternative development proposals for the site might not need to be shielded from view by new development to avoid harming the townscape of the Olympic Park.

7.70 The sensitivity of the Emerging New Urban Neighbourhoods Character Area is not specified, and the townscape effects above ground level are not assessed. At ground level the magnitude of change is determined to be very low and the effect “*at most minor*”.

7.71 Paragraph 8.23 notes that:

“It is considered that the minor effect on the future character of the emerging neighbourhood will be adverse but again this judgement needs to be read in the context that the Development Site is allocated for industrial use within the adopted LLDC Local Plan with an anticipated maximum height of development similar to that proposed in this Development. Therefore whether it was this Development or another, the expectation is that this level of effect will occur across part of the emerging new urban neighbourhood south of the DLR station (Pudding Mill).”

7.72 In fact, some alternative developments may have a beneficial effect on the area. Unfortunately, because no alternatives have been assessed it is not possible to come to a conclusion on this issue.

7.73 The Visual Assessment refers to a number of receptors:

- Queen Elizabeth Olympic Park
- ArcelorMittal Orbit
- Jubilee Greenway
- View Tube Café
- River Lea Navigation and Towpath
- Other local footpaths
- Surrounding residential development

7.74 The Queen Elizabeth Olympic Park is considered to have a high sensitivity to change, and a low to medium magnitude of change, resulting in “*no greater than a minor/moderate level of visual effect*”.

7.75 Paragraph 9.13 notes that:

“It is considered that the minor/moderate effect on views from a small part of the Queen Elizabeth Olympic Park will be adverse but this judgement needs to be read in the context that the Development Site is allocated for industrial use within the adopted LLDC Local Plan. Therefore whether it was this Development or another, the expectation is that this level of visual effect will occur across the southern part of the Queen Elizabeth Olympic Park.”

7.76 The response here must be the same as above: no alternatives have been considered so it is not possible to conclude that the level of visual effect will be the same regardless of the development proposed on site.

7.77 The ArcelorMittal Orbit is described as having a high sensitivity to change. While the *Guidelines for Landscape and Visual Impact Assessment* do not specify how visual sensitivity should be categorised, it would be normal to describe an internationally recognised and promoted viewpoint such as this as having a *very high* sensitivity to change.

7.78 The magnitude of change is described as low, which is debatable when the development site can clearly be viewed from the Orbit, to conclude that the level of visual effect of moderate/minor.

- 7.79 In this case, both the sensitivity to change and the magnitude of change could be more significant, and it would not be unreasonable to conclude that the visual effect on the Orbit was major adverse rather than moderate/minor. A more attractive development could reasonably be expected to improve views from the Orbit when compared with the current derelict brownfield site.
- 7.80 Similarly, the Jubilee Greenway and View Tube Café are described as having a high sensitivity to change when it could be argued that it should be very high. The proximity of the development site to these receptors is described in paragraph 9.26 as resulting *“in no greater than a medium magnitude of change”* so the assessment concludes that the visual effect is moderate.
- 7.81 The diagrams at the end of the assessment includes photos of the site from the View Tube, situated on the Greenway. These clearly show distant views of key London landmarks including The Shard and “The Walkie Talkie” at 20 Fenchurch Street. These distant views are likely to be blocked by the unattractive buildings of the proposed development. This suggests a greater than medium magnitude of change, and therefore a greater than moderate visual effect.
- 7.82 The River Lea Navigation and Towpath are described as having a high sensitivity to change, but the magnitude of change is described as low.
- 7.83 Paragraph 9.37 notes that:
- “It is possible that the cement towers in the southern part of the development and the coating plant in the United Asphalt scheme would be visible above the embankments but these would be seen in the context of the industrial activities which occupy the banks of the navigation along this stretch of the river.”*
- 7.84 The United Asphalt plant is proposed to be located immediately adjacent to the River Lea, with a chimney stack tall enough to disperse pollutants to such an extent that it is able to be scoped out of the air quality effects assessment. On that basis, it will undoubtedly be visible. This would result in a visual effect greater than the minor level concluded in paragraph 9.39.
- 7.85 In terms of other local footpaths, paragraph 9.41 notes that:
- “The only other footpath of note with a view of the Development Site is the footway along the southern side of Marshgate Lane which is identified within the Local Plan as a strategic connection from Pudding Mill to the Queen Elizabeth Olympic Park.”*
- 7.86 Users of this route are assessed as being of high sensitivity to change. The magnitude of change is described as medium, which could be open to challenge as paragraph 9.44 notes that:
- “The view southwards across the Development Site from this length of the footway along Marshgate Lane would change notably from an informal large storage yard with random stockpiles of aggregate to a more formalised arrangement of buildings, plant, parking areas and storage areas.”*
- 7.87 It is also noteworthy that the number of people using this footpath over time can be expected to increase as the local population increases and based on initiatives to encourage walking, and this should influence the magnitude of change experienced. The assessment concludes that the visual effect is moderate. Again, alternatives might provide a better than moderate level of harm.

7.88 The Assessment considers that residential receptors are generally regarded as having high sensitivity to change, and that most surrounding residential developments would have “a worst-case low magnitude of change in the views from these properties” (paragraph 9.79). This results in an “at most minor visual effect” (paragraph 9.82).

7.89 However, the Assessment recognises in paragraph 9.80 and 9.81 that:

“It is recognised that a small number of apartments on the east facing side of 417 and 419 Wick Lane lie slightly closer to the Development Site and are orientated across the River Lea towards the Olympic Stadium....”

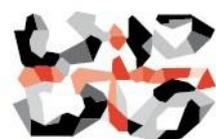
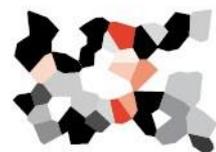
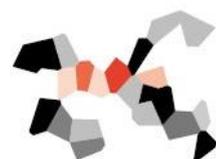
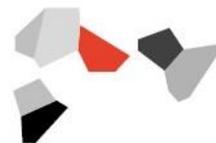
“For these properties it is recognised that there would be a medium magnitude of change in the view.”

7.90 As a result, for these homes the report accepts that there would be a moderate visual effect. 417 and 419 Wick Lane are less than 100 metres from the closest part of the site. Most flats currently benefit from attractive park and city views across the site and have clear views across the city, and these are proposed to be replaced by heavy industrial buildings. The magnitude of change to these homeowners is clearly greater than medium.

7.91 In conclusion to this section, it would seem apparent that the TVIA is often overly conservative in both its assessment of townscape or visual receptor sensitivity, and its assessment of magnitude of change. As a result, it often underestimates the significance of the environmental effect of the proposed development.

8.0 Conclusion

- 8.1 This report forms the basis of an objection to the four development proposals at Bow East Goods Yard. It demonstrates that:
- the proposals conflict with the LLDC's convergence agenda and aims to raise aspirations, skills and income levels in the area;
 - the proposals conflict with Local Plan objective 3, Strategic Policy SP.3, Policy BN.1 and BN.11, and London Plan policies 2.4 and 7.14;
 - there has been no local pre-application consultation at all, which is deeply unsatisfactory and contrary to the LLDC's Community Outreach Agenda;
 - the EIA process is flawed because an EIA should have been required, but has not been; and
 - the cumulative impact assessments produced to attempt to remedy are full of inconsistencies and underestimate the impacts of the proposals in many respects.
- 8.2 Key to this objection is the lack of vision for the site expressed by these proposals. It is accepted that a use needs to be found for the site, and that this use should maintain and fully utilise the railhead, but alternative uses exist that would enable these policy imperatives to be met whilst meeting the more aspirational vision for the area. The process undertaken to date, with no community consultation or EIA, and an inadequate assessment of alternative development opportunities as a result, means that the applications must be refused or withdrawn. Any other conclusion risks legal challenge.
- 8.3 We would be happy to discuss alternative uses for the site with the LLDC and the landowner, but in the meantime we urge you to refuse these harmful and unambitious proposals.



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