



Rebuttal Statement

Reason for Refusal 1: Safeguarded Waste Site

Alan Potter

Site: Arlington Works, 23 - 27 Arlington Road, Twickenham, TW1 2BB

LPA reference:18/2714/FUL

Appeal PINs reference: APP/L5810/W/20/3249153

Response to the proof of evidence supplied by Mr Mehegan

1. INTRODUCTION

- 1.1 This rebuttal has been prepared in response to certain points presented in the Matthew Mehegan's proof submitted on behalf of the appellant relating to reason for refusal No 1, loss of safeguarded waste management capacity that would arise as a result of the release of the appeal site.
- 1.2 This is not intended to be an exhaustive rebuttal. Rather it is intended to respond to certain issues raised in Mr Mehegan's proof to provide clarification on the planning authority's position on these matters to aid the Inspector. It also references evidence to support the authority's rebuttal where further evidence has been introduced by Mr Mehegan's proof.
- 1.3 The fact that I do not comment on a particular paragraph or every point raised in Mr Mehegan's proof in this rebuttal does not mean that I agree with it. Where Mr Mehegan's proof expresses a view that is at odds with those expressed in my Proof, I remain of the view that the interpretation of application of policy is as set out in my Proof.

2. SAFEGUARDED WASTE SITE

- 2.1 This rebuttal addresses each point in turn as presented in Mr Mehegan's proof.

The Size of the Site

- 2.2 I note that Mr Mehegan's proof corrects an error contained in the Waterman Report that the area subject to the CLEUD as only being 0.05ha, whereas he now accepts the LBRuT value of 0.08 ha as being correct.

The Potential for Other Waste Uses To Occupy The Site

- 2.3 I note that Mr Mehegan's proof maintains that he considers the area of land subject to safeguarding to be insufficient to accommodate waste management facility types identified in the ODPM study, or the WLWP.
- 2.4 I remain of the view that whether the area of land is capable of accommodating a different type of waste management facility is immaterial to the application of the safeguarding policy to the waste management use consented on the appeal site. I also note that that the current consented use relates to a specialist facility dealing with hazardous waste, which the ODPM study did not address, it being focussed on facilities managing more generic waste types, nor did the WLWP seek to make express provision as its focus was on capacity to manage general household and commercial waste.

The Availability of Suitable Capacity;

- 2.5 I note that Mr Mehegan's proof presents data for four sites as offering unexploited hazardous waste management capacity. Only one of these falls within the WLWP area, and, by his calculations, this site only offers 258 tonnes of unused capacity. His proof corrects a further error in the appellant's case, that of inclusion of a site operated by Heathrow Airport Limited recognising that it is indeed a non-hazardous waste transfer station as identified in LBRuT's Statement of Case.
- 2.6 His proof introduces a new site operated by Powerday which falls outside the WLWP area, but falls within the purview of the Old Oak & Park Royal Development Corporation (OPDC). I note that the Powerday site is located within the London Borough of Hammersmith & Fulham which lies outside the West London Waste Plan area. I note that Policy WLPW 2 of the WLWP requires compensatory capacity to be located within the WLWP area and therefore its capacity cannot be relied upon, to be in compliance with that policy. I also note that the site's capacity has been counted in the waste capacity assessment paper produced by the London Borough of Hammersmith & Fulham in 2017 as part of its waste plan preparation process. This paper counts all the site capacity towards management of household, commercial/industrial waste along with CDE waste. That is to say none of the capacity is identified as being available for the management of hazardous waste. I also note that this is consistent with the planning consent for the site which is limited by condition to only accept municipal solid waste and inert waste.
- 2.7 I note that Mr Mehegan's proof also identifies a street sweepings reception depot located at Heathrow airport as offering hazardous waste treatment capacity. His proof also assumes that in the absence of any reported data on inputs the full capacity is available to exploit as compensatory capacity. I note that the policy test for an existing site is that it is lawfully permitted to manage waste under planning law not that it is subject to an environmental permit. It is

possible for a site to be subject to an environmental permit without planning consent being in place and this facility is a case in point. This facility operates under permitted development rights as part of the Heathrow airport operations. Therefore, it could not lawfully accept waste from outside the Heathrow airport complex and cannot therefore be considered to offer compensatory capacity. I also note that were Mr Mehegan's approach to assessing available capacity at this site to be applied to the Appeal site then it would be assumed the Appeal site offered 13,400 tonnes of compensatory capacity, this being the difference between the 2017 peak value and the value shown in the 2019 WDI of zero.

The Viability of The Waste Oil Treatment Process.

- 2.8 I note that Mr Mehegan's proof notes that the appeal site operated at less than 20% of the figure considered to represent the minimum viable stated in the National Hazardous Waste Strategy cited in the WLWP evidence base. I note that 2017 was the peak year for inputs to the appeal site over a number of years and this input represented the highest input for any site in London accepting waste oil at the time. Given the other sites continue to operate at a similar level this indicates the capacity offered by the site does represent a viable size. I also note that the value cited in the National Hazardous Waste Strategy can be taken to be indicative only and relates to provision of new oil regeneration plant, and not the viability of existing plant.

Appendix C: Hazardous Waste Capacity Data

- 2.9 I note that this Appendix presents data Mr Mehegan relies upon to demonstrate the surplus capacity available to treat hazardous waste. I note that there is no indication of the source of the actual values used to determine the capacity parameter referred to as 'Permitted annual tonnage'. I also note that if capacity set by the site permit has been used rather than peak input over a five year period, this is counter to the approach stated in the Intend to Publish version of the London Plan. The London Plan approach recognises that capacities stated in permits can be significantly in excess of the true capability of a site and hence are not reliable.