

APP/X5210/A/07/2051898/NWF (Camden)
APP/V5570/1A/07/2051902/NWF (Islington)

Kings Cross Triangle Site, bounded by York Way, East Coast Main Line & Channel Tunnel Rail Link, London N1

Closing statement for CRG and KXRLG

This appeal against Islington Council's refusal of permission for this outline application should be rejected on two grounds:

- (1) that the proposed development contains too small a quantity and proportion of affordable housing and, in particular, too small a quantity and proportion of social housing to rent;
- (2) that the suitability of this very noisy site for housing has not been demonstrated.

It has become very clear during the inquiry that our objections represent disagreements about the relative weight which should be attached to planning goals and policies where there is actual or perceived conflict between the full achievement of such policies.

On housing, the severity of the need for affordable housing—and especially for social housing to rent—should have a higher weighting relative to other planning considerations and in this our approach is broadly similar to that of the Islington West Area Committee when it refused permission.

On noise, we consider that the attitude expressed by Camden that 'a good noise environment is a luxury'¹ we cannot afford is mistaken, and greater weight should be given to Camden's UDP noise policies in this case.

What is King's Cross?

King's Cross is a typical inner city area close to a major transport interchange. It grew up around the goods yards associated with the railway stations and the canal. Vestiges of industry remain, particularly the concrete batching plants.

The railways do more than merely remain, they are becoming more important. Indeed we have a new one—High Speed One which carries the Channel Tunnel Rail Link and will carry Kent commuters to St Pancras—and another yet to come—the Thameslink extension which will give East Anglians not just better access to London but also to Gatwick Airport and the south coast. There are also several main roads, including York Way which is relevant to this appeal.

¹ ID 7, Opening by Mr Brown on behalf of Camden LB.

The neighbourhood itself is very mixed, with a remarkably stable population (of many ethnic groups) alongside a relatively volatile population (also diverse) with many educated people and students living alongside and among lower-skilled and low-paid people.

As Ms Shelley outlined in evidence, the area also has a very mixed noise environment. Rufford Street residents may suffer from the Cemex concrete batching plant but it doesn't affect people round the corner in Gifford Street. The same applies to other residential streets off the main roads: they may not be far from the main roads or the railways but are shielded from them by distance, other buildings or, in some cases, design.

Housing

We deal first with the housing issues.

With every successive plan and study, London's needs for more affordable and social rented housing are given more and more emphasis. As the evidence of those needs has not been challenged at any point in the Inquiry we can be brief.

You heard from Mr Edwards² that

In the *London Plan 2004* the Mayor 'adopted a strategic target that 50 percent of all additional housing should be affordable'³. This policy remains unamended in the *London Plan Further Alterations*⁴.

Ms Dickinson referred to this too⁵, as did other witnesses.

More recently, the Mayor's Draft London Housing Strategy proposes retaining current targets although, as Mr Edwards quoted here, without challenge:

*The evidence shows that 82 per cent of Londoners in housing need can only afford social rented housing, while intermediate housing may be appropriate for the other 18 per cent.*⁶

Ms Dickinson also refers to this document as reinforcing the targets.⁷ As achieving the targets will not meet the known need, under-achievement of them is even worse.

Equally, for Camden you heard from Mr Edwards⁸ that the latest borough housing strategy said that

² Michael Edwards Proof of evidence §5.1.3

³ London Plan 2004 §3.37 CD 3.1

⁴ London Plan Further Alterations §3.37 CD 3.3

⁵ Claire Dickinson Proof of evidence §5.21 and elsewhere.

⁶ Michael Edwards Proof of evidence §5.2.12; Mayor's Draft London Housing Strategy page 31 CD 3.4

⁷ Claire Dickinson proof §5.28

⁸ Michael Edwards Supplementary proof §3.7

...an additional 5,187 units per year (over and above current supply) are needed to meet all of the current and projected need for affordable homes until 2009.⁹

For Islington the needs are also severe and, while their survey and strategy are out of date¹⁰, those needs have not been challenged by any parties here. Both Mr Clarke and Mr Lacey stressed the needs of Islington and on this were unchallenged.¹¹

Mr Clarke also presented a summary of changing national advice and policy which emphasises the growing importance attached to affordability at this level.¹²

The proposed development falls short of the policies of the Development Plan—that is, the targets in the London Plan and in the Camden Revised UDP.

Six principal grounds have been presented to the Inquiry in justification of this shortfall, and we deal with each one in turn.

(i) Council estates surround the site and this justifies a larger-than-normal provision of market and intermediate tenures to dilute the dominance of social tenancy.

We contend that the appellants and Camden are influenced by national-level experience, as well as by stereotypes of council tenants and council estates, and have disregarded the actual character of the people and the communities here. Ms Dickinson¹³ in her evidence relied on the work of Arup in the Environmental Statement. Mr Kirby, in cross-examination by Ms Ellis, acknowledged that the Rowntree work he had cited from the Regeneration Statement¹⁴ was national rather than local.

The people who live on the nearby estates are in many cases our members and have been the subject of a great deal of research. We believe we speak with some knowledge.

We have submitted evidence that:

⁹ LBC *Housing Strategy* 2007 update §3.1 CD 4.8

¹⁰ Claire Dickinson proof § 5.41

¹¹ Christopher Clarke and Hugh Lacey proofs of evidence, *passim*.

¹² Christopher Clarke Proof of evidence §2 and *passim*

¹³ Claire Dickinson Proof §6.3; Environmental Statement Vol 3, Part 12

¹⁴ Richard Kirby response note §2.13; Regeneration Strategy page 64 CD 1.15

a. While council flats in the adjoining wards do house many severely deprived households, they *also* house substantial numbers of middle income and qualified working people.¹⁵ Ms Dickinson notes

*A seam of middle income earners. Unexpectedly there was evidence of a substantially higher number of households [with] middle incomes than would be expected given the concentrations of social rented property...*¹⁶

This diversity is not new: estates round here have been very diverse for decades.

b. More than 20 years of Right-to-Buy sales have diluted council stock by about 30% in both boroughs¹⁷. Council estates in this area have about a third of their flats occupied by owner-occupying leaseholders or by private tenants. This is already a massive dilution.

c. RtB sales continue. Camden expects between 100 and 150 per year borough-wide¹⁸ and there are no Islington forecasts. Transformation of the area by the CTRL services and by King's Cross Central may well accelerate sales.

d. The mayor's SPG is in any event very clear that the target proportions of affordable housing and its component types should *not* be adjusted to take account of surrounding communities in cases where the development in question has more than 1000 total dwellings since a target mix should be achievable within the scheme.¹⁹ Mr Edwards referred to this and was unchallenged. King's Cross Central will have many more than 1000 dwellings and the London Plan mix should be achieved within it.

Thus this whole argument does not apply.

(ii) A lower proportion of social rented housing would contribute to a more stable community—an 'anchoring' of residents.

In the locality²⁰, and more widely, council tenants tend far more often to be long-term residents than do—at the other extreme—private tenants. Reducing the proportion of social renting will certainly tend to increase population volatility. Sir, you pointed out

¹⁵ Michael Edwards supplementary proof page 4

¹⁶ Claire Dickinson proof §6.6

¹⁷ Michael Edwards supplementary proof §3.5; Camden Housing Strategy page 8 CD 4.8

¹⁸ Camden Housing Strategy CD 4.8, p.8

¹⁹ Michael Edwards supplementary proof §3.8 (i); GLA SPG Housing §18.9 CD 3.8

²⁰ Edwards supplementary proof §3.8(iii) and Annexe

that the short average stay of private tenants could partly reflect the recent expansion of that tenure. We certainly accept that this is more visible as the sector has grown but, as we said when you raised the point, other factors are also relevant. In particular we would point to changes in the security of tenure of these people as a significant element in the apparent change and, on the demand side, the dynamism of the student and young worker populations. The way to reduce volatility would be to reduce the open-market sector, where sub-letting and buy-to-let occur.

There was some debate about the extent of sub-letting in intermediate housing during the Inquiry but no clear evidence was presented.

(iii) Larger proportions of intermediate housing (at the expense of social renting) are necessary to give social tenants in the area an easier route out of renting but within the locality.

This is an objective which is valuable to some, but we pointed out that Islington has been generating a good deal more than its target proportions of intermediate housing and so the Triangle should, if anything, re-balance the mix in favour of social renting. Mr Edwards was not challenged when he said:

Affordable housing of all kinds represented 67% of all completions in Islington in the latest year (05/06), 29% in Camden and 49% in the 2 boroughs combined.²¹

However far too low a proportion of that housing was social housing to rent. The social rental proportions were: 47% in Camden and 36% in Islington, which is 40% in the two boroughs combined, very far short of the target 70%. (Same source).

(iv) Larger proportions of affordable and of social rented housing elsewhere in King's Cross Central compensate for a lower proportion on the Triangle.

The proportions on the Main Site fell short of the target levels when measured in units (42% net affordable, and of them, 67% social renting²²). Only now that unit room sizes have been agreed can the calculation be re-done in habitable rooms, thus meeting the target for the Main Site. This overshoot of the target (in rooms, though not

²¹ Michael Edwards proof §3.4/5, quoting LP Annual Monitoring Report 3, tables 16 and 17 CD 3.10

²² Claire Dickinson proof §7.16. Not clear whether this is net of demolitions, which would lower the 67% slightly.

in units) does not in our view allow for any undershoot on the Triangle.

We would also stress that the London Plan emphasises that sites vary and on some sites it should be possible to achieve more than the average.²³

(v) No policy has absolute priority and the achievement of housing targets must be tempered by consideration of other material considerations—in this case 'regeneration benefits' and considerations of 'viability'

The London Plan monitoring reports show that the 50% and the 70:30 targets are very rarely achieved in London. We are therefore very concerned that King's Cross should not make this under-achievement even worse. Mr Edwards was unchallenged when he quoted evidence to the London Plan FA EIP

The latest monitoring report of the London Plan of February '07 shows that only 19% of homes constructed in 05/06 were social rented (a shortfall of 40%), 12% intermediate and 69% market housing.²⁴

The London Plan target for dwellings to be produced in the Opportunity Area is, in total, 2,250. This number is only achieved by including the student housing (exempt from an affordable housing contribution) and the Manhattan Lofts apartments at St Pancras (excused a contribution on conservation grounds)²⁵ as well as the units on the Triangle.

This target of only 2,250 new homes was regarded as an under-achievement by the Panel report on the LPEA.²⁶

The argument by the appellants and by Camden that some under-achievement could be justified by the regeneration benefits of a mixed use scheme is not valid since, as Mr Kirby said to Ms Ellis in cross-examination, *any* scheme remotely conforming to the Planning Brief would necessarily have had these attributes.

Finally, this argument may come down to considerations of financial viability since that could be the reason why achievement of a housing target could threaten other aims. Although financial

²³ London Plan (para 3.42, CD 3.1) quoted in Claire Dickinson proof §5.22

²⁴ Michael Edwards proof of evidence §5.2.11

²⁵ Put to Mr Edwards during cross examination by Mr Lindblom.

²⁶ Michael Edwards Proof of evidence §5.1.5 quoting London Plan Early Alterations EIP Panel report § 2.41 and Recommendation H18—see attachment to Proof.

viability is a material consideration the appellants did not disclose their assumptions and have not put evidence on this issue to the Inquiry.

We believe you should not be influenced by the DTZ reports on this issue for the many reasons put by Islington during the Inquiry but, above all, because any viability conclusions depend critically on the assumptions made about the site acquisition cost. On this you heard that DTZ had to make their own estimated valuation (so that their argument necessarily became circular). You also heard that the land has not yet been transferred and paid for²⁷. We contended that any such transaction must have been based on assumptions by government (as seller) and developers (as buyer) that housing targets would need to be fully met as one of the valuation assumptions, and this was not challenged²⁸.

(vi) The proportions embodied in the proposal have been the subject of long negotiation between officers of both councils and the appellants. Elected members should be very cautious in overturning these agreements by voting against officers' advice.

On this issue we would urge you, sir, to consider that the British planning system gains its legitimacy from the fact that policy and decisions are made by accountable elected politicians at the various levels of government. This is an appeal against a decision by democratically elected councillors.

Officers engaged in negotiations with applicants should follow politicians' decisions as embodied in policies and plans and as they evolve in discussions and debate. If they drift too far from their members' concerns, it may be at their peril.

In this case you have heard that many elected members in Camden were deeply concerned about whether to support the appeal or oppose it. In the end only a close vote in October 2007²⁹ led to Camden agreeing to support the appeal rather than oppose it. Equally, concern about the adequacy of the affordable housing proposed on the Main Site in March 2006³⁰ nearly led to a deferral of any decision on both applications to allow officers to renegotiate the affordable housing.

²⁷ Ms Ellis cross-examining Mr Robinson.

²⁸ Michael Edwards proof §4.5.6 subsection 6.

²⁹ CD4.5

³⁰ CD4.4

In Islington the West Area Committee³¹ rejected the application.

You have also been told that, after careful debate at the West Area Committee, when it was becoming clear that members were deeply dissatisfied with the Triangle application, their planning officer advised that, in that case, they should refuse it.³²

We must stress that not one of the arguments which has been adduced in support of this shortfall against Development Plan targets carries weight. Housing need is very severe indeed and the application should be refused.

Islington Council has argued the highly technical issues on whether some of the offered 'intermediate products' qualify as such for the purposes of PPS3. We support them in that.

One housing question remains: the appellants have given notice that it would be open to them to pursue a scheme with a reduced housing quantum or to pursue other land uses³³. Mr Robinson, in cross examination asserted that the GLA housing target for the King's Cross Opportunity Area³⁴ would be fully met by the amount of housing delivered on the Main Site (including the student accommodation which does not contribute towards the affordable housing target) provided one included both the Manhattan Lofts development (which doesn't make any affordable housing contribution either) and the Triangle. Clearly the Councils should not grant permission for an alternative scheme which failed to make good the Opportunity Area housing target of the London Plan unless the displaced housing were to be replaced elsewhere in the Opportunity Area.

Noise

As Ms Shelley outlined in evidence, the area has a very mixed noise environment. Mr Perrin—and future residents of the Triangle—may become annoyed by noise from the Cemex concrete batching plant but it is indistinguishable from the ambient noise round the corner in Gifford Street. The same applies to other residential streets off the main roads: they may not be far from the main roads or the railways but are shielded from them by distance, other buildings or, in some cases, design.

³¹ CD5.20

³² Michael Edwards' Summary of evidence, §2.5, accepted by Mr Robinson in cross-examination

³³ Appellants' Response to the Inspector's Adjournment Note §5.4 and §5.5.

³⁴ London Plan Table 5B1 (in consolidated version replacing CD 3.1)

The Triangle is very different. Its noise climate, as Mr Brown put it on behalf of Camden Council in opening, is 'challenging'. Any development on it will be surrounded by transport noise sources: High Speed One and Thameslink to the north, the East Coast main line to the east and York Way to the west.

This challenge was explicitly recognised by the Planning and Development Brief³⁵ when it stated that

'Subject to satisfactory... residential amenity being achieved this close to railway lines, the Triangle could accommodate about 200 one- and two-bed homes'.

It set a test—satisfactory residential amenity—for any applicant to meet. In our view, the appellants have not met it, for reasons we will do our best to explain.

The policy position

The appellants have chosen in their documents and their noise evidence to use PPG 24 and its Noise Exposure Categories ('NECs') as the basis of their case. It is the relevant national policy but it is old, published in 1994. In the Uxbridge Road case it is described as 'long in the tooth' by the inspector³⁶. Technology has moved on, as have people's ideas about what a sustainable environment should require, but national guidance on noise has not. Certainly no draft PPS 24 has appeared. There appears to be no consensus on what will replace this guidance.

In those circumstances local planning authorities have been faced with a problem. The three under consideration here, Camden, Islington and Ealing (the LPA for the Uxbridge Road case), have respected the framework created by the PPG but each of them has come to a different conclusion about how to resolve it.

Islington chose to incorporate parts of PPG 24 into its special policy guidance almost word for word.

Ealing appears to have accepted the broad framework set out by PPG 24 but adopted very stringent indoor noise standards. These used (the Inspector found over-used) internal noise levels based World Health Organisation advice. Their key values were based on Table 5 of British Standard 8233³⁷.

Camden's policy has evolved. Its 2000 UDP³⁸ was clearly the product of careful analysis of the PPG. The PPG created NECs and

³⁵ CD 6.1 at page 69.

³⁶ ID 16, §14

³⁷ CD 7.22.

³⁸ LC Camden UDP 2000 extract, document DS5 listed in ID 11.

gave them descriptions and boundaries. §9 of the PPG gave some flexibility to adjust them:

'all NECs might be increased by up to 3-dB (A) above the recommended levels [or] a reduction of up to 3 dB (A) may be justified'.

The Council adopted both the description of NEC D ('Planning permission should normally be refused') and its associated noise levels as they were, but it seems that it did not like the ambiguity of both NEC B and NEC C. It was plainly unhappy with having categories where

'Noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise' (NEC B)

And, for NEC C

'Planning permission should not normally be granted. Where it is considered that permission should be given, for example because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise'.

The very mixed messages here, which range from 'you might not need noise mitigation' to 'we might refuse to grant you permission', were clearly not to the Council's taste.

Instead, it used the flexibility to set up a category between having no requirement and a presumption of refusal. It coupled this with unambiguous descriptions. The 2000 UDP set levels in §16.24 where 'developers should introduce measures such as acoustic secondary glazing in combination with acoustic ventilation, to reduce the internal impact of this noise'. There was a clear level at which mitigation measures were required, bypassing the uncertainty in NEC B. Equally, there was no threat, providing suitable mitigation was offered, that the application might be refused unlike NEC C. Above that §16.25 set the levels at which planning permission should normally be refused.

As Camden developed what was to become its 2006 UDP, the policy was reconsidered. After several years of work, including consultation, objections, a public inquiry and line-by-line examination by a Planning Inspector, the UDP became policy, including SD7B(b), its supporting text and a new set of tables in Appendix 1 of the UDP. The policy says

Unless appropriate attenuation measures are available and are included, the Council will not grant planning permission for:

... b) development sensitive to noise/vibration in locations with noise/vibration pollution.

In assessing applications against these criteria, the Council will have regard to the levels set out in Appendix 1 to this Plan.

It did not change either the description or the levels at which noise mitigation would be required in what had become Table B (the replacement for the table in §16.24). Table A repeated the levels shown in the old §16.25. However, the table definition changed. Instead of suggesting that 'planning permission should normally be refused' it now said that 'planning permission will not be granted' with the not underlined. Given the process that any UDP has to go through to be adopted this cannot be seen as some sort of mistake. The underlined 'not' is repeated on all noise tables where it is appropriate and this form of emphasis is not repeated anywhere else in the entire UDP.

We submit that this is open to only one interpretation: the policy is meant to mean what it says and it says what it means clearly. As part of its sustainability policies the Council decided it did not want new housing where the external environment was too noisy to allow people to comfortably open their windows. Although, as you have so rightly remarked, one can never say 'never' in planning, the change represents a deliberate hardening of Camden's policy on noisy environments. It increases the weight to be given to this policy in assessing an application.

The replacement UDP was adopted in June 2006. The fact that the policy and, as a result, the importance it should be accorded had changed—between Camden's original decision on the Triangle in March 2006 and its reconsideration of the application in the light of this appeal in October 2007—was not drawn to Members' attention. The close vote last October could have gone the other way.

The development proposals for housing

In the light of the policy it is necessary to look at the actual development proposals, how the appellants have presented them and how they should be assessed.

This is an outline application, but one where full planning permission is sought for the siting of the blocks. The siting, along with the maximum floorspace, is fixed by the parameter plans in the Revised Development Specification³⁹ as are the uses by other parts of that document. As a result we know where Block A will be, that it will contain a maximum gross floor area of 14,200 sq m and provide up to 162 market residential units. Block B's location is also

³⁹ CD 1.4

fixed and it is to provide 84 affordable housing units in a maximum gross floor area of 6,900 sq m.

So, unlike the Uxbridge Road⁴⁰ case on which the appellants appear to rely, there are no plans to show how the flats would relate to the noise sources. Indeed the appellants produced some illustrative material⁴¹ for Block A in response to a direct request from you but nothing for Block B. Even this is not binding on them but merely indicative.

When the first parts of the Environmental Statement were produced in May 2004 they revealed that the western façade of Block B—which is intended to contain all of the affordable housing—was expected to experience noise levels so high that, under Camden’s then UDP, it would normally be refused permission. Under the present UDP permission should not be granted unless, at the least, the problem has been fully addressed.

The appellants did not address the problem, as Volume 5 of the Environmental Statement makes clear. It reports that:

the London Borough of Camden EHT has queried whether the findings reported in Parts 5.9 and 17 cast doubt on the suitability of parts of the Triangle Site and York Way for residential development⁴².

Instead of addressing the need for more detailed analysis and revised layouts, the applicants suggest using paragraph 9 of PPG 24 to move the goal posts.

As Mr English stated in his evidence when asked about mitigation of loud noise events, it was not a policy issue the appellants considered they needed to address. Likewise they appear to consider site suitability is not a policy issue they needed to address. They could, at that stage, have considered revising the layout but did not.

The question remains: can real amenity be achieved for the real people who will live on this site?

The airborne noise problems

Block A falls into Camden’s Table B on current predictions. As such a detailed mitigation scheme will be needed. However, there remains a lurking doubt about the full impact of the Thameslink trains. The fact remains that, despite Mr English’s assessment of Thameslink trains in other places, we still do not have accurate

⁴⁰ ID 16

⁴¹ ID 23, Appendix F

⁴² CD 1.27, §24.9.11

noise projections for this particular piece of track. The track is coming out of a tunnel portal, it is on an incline and it is on a curve as it joins the East Coast Mainline. It is very different from a straight piece of track in Sussex. So we have no projections for the level of airborne noise, including the squeak train wheels make on curves the Inspector referred to which, of their nature, are both highly noticeable and, for many people, very irritating.

Block B is the real problem. It contains all the affordable housing proposed for the site. With this outline application, without even an indicative drawing as we have for Block A⁴³, we do not know how many flats will have bedrooms or living rooms fronting onto York Way and its traffic noise. It seems impossible to design it so that none face that way. In Ealing only 5 of the 51 flats were to face entirely onto the Uxbridge Road⁴⁴ [Inquiry Documents 16, §20]

Noise from York Way

Before going further it is sensible to note that two further volumes of the Environmental Statement⁴⁵ have been produced, both of which offered the same judgment about this façade. This remained the case in the first of Mr English's two notes⁴⁶ introduced at the beginning of this Inquiry. After the adjournment the appellants produced a further note from Mr English⁴⁷, the final paragraph of which suggests that the façade could be reclassified as falling into Camden's Table B (mitigation required) by taking account of a cycle lane along York Way. In cross-examination he agreed that neither the method used to predict the noise levels (the unpublished *Calculation of Road Traffic Noise*, 'CTRN') nor direct readings were sufficiently accurate to detect the mathematical difference the cycle lane would make if it was taken into account. CRTN has a 95% confidence interval of plus or minus 2 dB: one in forty calculations will produce a prediction that is more than 2 dB above the 'true' level and one in forty one that is more than 2 dB below it.

Although the appellants have only now noticed the cycle lane it has apparently been there since the realigned road was opened in April 2005 several months before Volume 5 of the Environmental Statement was published. It has no protective kerb between it and the motor traffic and, in our experience, is used by motor vehicles as can be seen from the worn state of the markings. Mr English had not apparently seen this happen.

⁴³ ID 23, Appendix F

⁴⁴ ID 16, §20

⁴⁵ CD 1.27 and CD 1.**

⁴⁶ ID 2, Table CE 1.

⁴⁷ ID 23, Appendix B

In any event, the appellants say they are content to have this Inquiry make its decision on the basis that the western façade of Block B falls into Camden's Table A rather than its Table B.

Other noise issues affecting amenity

Groundborne noise

We do not have accurate projections for the possible groundborne noise, though Mr English made it clear that all three parts of Block A falls within the 30 metres where he considers that groundborne noise might be experienced from Thameslink. He also acknowledged that part of Block B could fall into this zone of influence. As the map of the Barking CTRL portal showed, and Mr English appeared to accept, the fact that a railway has a design standard of 40 $\text{dB}_{\text{LAmax}}(\text{s})$ does not guarantee that this will be the maximum level experienced close to a portal. In the absence of detailed prediction work no-one can know what the impact of Thameslink groundborne noise will be on the residential works units.

Mr English also told us that the appellants are currently negotiating with Network Rail to secure mitigation during fitting out which would reduce the groundborne noise impacts to 35dB. We wish them every success in their negotiations but must point out that London and Continental Railways failed to secure similar attenuation during the Thameslink Inquiry⁴⁸.

If this attempt fails, Mr English has told us that structural isolation and mitigation of the building itself will be able to provide sufficient attenuation. Unfortunately no detailed proposals are before the Inquiry which would allow the Inspector to form a view on that. Again, a full planning application would properly include such information, but an outline application does not. The Inspector is being asked to take the matter on trust.

Cemex

Distinctive noises come from this industrial source, though only in the daytime. Despite the mitigation installed as part of the 1961 consent granted on appeal, and even after the subsequent measures described by Mr Perrin in his submission, the Cemex plant still causes complaints from near neighbours. Unfortunately, the mitigating structures described in the 1961 Inspector's report [submitted with Mr Perrin's second note], such as the reflecting canopy, while helping to shield Rufford Street from some of the impacts actually direct them towards the Triangle site. The daily noise, calculated as LA_{eq} , may well not be excessive, but the

⁴⁸ Item DS9 'Thameslink 2000 Report' listed in ID 11,

individual LAmox noise events have a greater impact and are experienced in Rufford Street as a considerable nuisance.

In their response to the Inspector's adjournment note, the appellants state that 'there is presently no commitment or intention by L&CR to grant a new lease after 2015'. However, this appeal is being determined now in 2008, not at some time in the future when an existing tenancy may, or may not, be terminated and another, as yet unknown, use proposed for the Cemex site.

The bells

The train warning bells sound night and day, at any time when the East Coast Mainline trains are operating. As noise events they may be less loud than the trains which follow but, sounding like an alarm clock, can wake a sleeping resident.

What happens if people find they have poor residential amenity

Mr English has suggested⁴⁹ that there is 'evidence' that properties exposed to high noise levels are no less sought after because of their location. If there is any such evidence the appellants have chosen not to put it before this Inquiry. We asked the appellants for a reference to this evidence but received no reply so were unable to question Mr English about it.

By contrast, DTZ, in their letter to Camden of November 2007 [CD 4.7], state: 'Furthermore we consider the rent/sales value of housing on the Triangle to be less than that of the Main site because of its immediate environment'.

The question for us, as local groups hoping for regeneration of the King's Cross area, is what happens next. Assume the market housing has been sold first time, but soon those buyers become wearied by that 'immediate environment'. They want to sell and go somewhere quieter. Perhaps they are able to, or perhaps they are not and they decide to rent out the property. Either way there is a turn-over, an increased instability, and the question of anchorage—the creation of an established community—could be put in jeopardy.

Buyers of course have greater freedom: they can sell, they can move and rent out, they do not have to stay if they are unhappy. But all that those in social rented homes have is the right to request a transfer—a very limited right.

⁴⁹ ID 2, §5.3

Conclusion

We are asking you to:

Require a scheme that at least 35% social rented housing and at least 50% affordable housing overall.

Require a scheme that provides genuine residential amenity for all its residents including those in the affordable housing who, if this appeal is granted, will be faced with living directly over the noisy York Way.

It just remains for me to thank you, sir, for allowing us so much time to present our case and for your patience in hearing it. We are very aware that if we had greater resources our case could have been better put.

In saying that, we are also very aware that we have been trying to do our best for the people of King's Cross, to get a development on this small site which will most help create real regeneration. We believe passionately that nothing but the best will do for King's Cross.