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Our ref: MON002.001/cf
Your ref: PCU/RT/N5090/3278950
28 March 2022

Dear Madam,

Proposed grant of planning permission for the proposed development of land at B&Q Broadway Retail Park, Cricklewood Lane, Barnet NW2 1ES (London Borough of Barnet reference 20/3564/OUT)

Holding Direction pursuant to Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 dated 25 March 2022

1. We act for Montreaux Cricklewood Development Limited ('Montreaux') in relation to planning matters in connection with the above planning application.
2. We refer to the holding direction that you issued on 25 March under the above reference in respect of the above planning application.
3. Before turning to consider why the Application clearly does not meet the call-in criteria and, therefore, the holding direction should be removed forthwith, we reiterate an important point that has already been made to you by the Local Planning Authority. LB Barnet will be adopting a new Community Infrastructure Levy charging schedule on 1 April 2022. The result of this new CIL would be to add circa £7m on to the CIL liability of the proposed development - this will have the effect of rendering the scheme unviable and undeliverable. **In this particular case, therefore, the holding direction does not merely introduce delay to the grant of planning permission, it fundamentally changes the economics of the development and threatens its very delivery.** The LPA, Montreaux and indeed the Mayor of London all wish to the development to proceed because of the benefits it delivers. The holding direction you have imposed, without justification, will simply frustrate the delivery of this development which delivers important benefits to the local area including the delivery of much needed affordable housing. On behalf of Montreaux, we urge the Secretary of State to remove his holding direction so that this matter may be determined locally.
4. We submit that the imposition of this holding direction is quite inappropriate. This case does not meet any of the criteria for call-in.
5. We note that on 26 March 2019 the Secretary of State confirmed to Parliament that his call-in policy (see further below) set out in the Written Ministerial Statement of 26 October 2012 remains extant. It is important to note that the Application site is not subject to any nationally protective designations in respect of heritage, landscape value, or ecology matters and no National Planning Policy Framework

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(‘NPPF’) policy indicates that development on the site should be restricted. The scale and nature of the scheme is not referable in itself to the Secretary of State.

6. The Proposed Development delivers a comprehensive package of planning benefits, including:
 - a. Up to 1,049 new homes to go towards the Council’s identified housing need.
 - b. Delivery of 35% affordable housing via a mix of tenures including social rent and intermediate products
 - c. Delivery of a range of housing types and sizes
 - d. Redeveloping a site in a highly sustainable location for new housing, removing the existing current situation of ‘big box’ retailing that incurs notable traffic generation
 - e. Making the best use of previously developed, brownfield land within a defined Opportunity Area & Regeneration Area
 - f. Providing a new civic square for the centre of Cricklewood for use by community groups and local residents
 - g. Enhancing the quality of Cricklewood Green which is a designated ‘Asset of Community Involvement’.
 - h. Introducing new public green spaces and children’s play space
 - i. The opportunity for reprovision of a local NHS facility
 - j. Securing enactments to local public transport services through financial obligations
 - k. Safeguarding land for a new access to Cricklewood Railway Station
 - l. A CIL Payment of approximately £12m to be spent on local infrastructure
7. Such a considerable package of planning benefits was considered by LB Barnet, in its planning judgment, as demonstrably outweighing any disbenefits of the proposed development.
8. The benefits the Council considers the scheme to provide are amplified by the draft allocation in the emerging Barnet Local Plan for 1,007 new homes, which would incur a level of development similar to that which is sought under planning application LPA ref 20/3564/OUT.
9. Turning to the call-in criteria for the Secretary of State to consider otherwise known as the ‘Caborn Principles’, it is clear that they are not met in this case. Addressing each in turn, the Secretary of State must consider whether:

- **The application may conflict with national policies on important matters**

The Application has been thoroughly and robustly considered by LB Barnet against all relevant national policies. It was concluded by them that there is no conflict with national policies on important matters and that the Proposed Development, being compliant with the National Planning Policy Framework (‘NPPF’) would result in sustainable development.

- **The application may have significant long-term impact on economic growth and meeting housing needs across a wider area than a single local authority**

We consider it to be clear that there will be no significant long-term impacts on economic growth and housing need across a wider area than the area served by LB Barnet arising from the proposed development.

- **The application could have significant effects beyond their immediate locality**

There are no significant adverse effects beyond their immediate locality arising from the proposed development.

- **The application would give rise to substantial cross-boundary or national controversy**

There is no substantial cross-boundary or national controversy arising from the proposed development.

- **The application raises significant architectural and urban design issues**

The application raises no significant architectural and urban design issues.

- **The application may involve the interests of national security or of foreign governments**

The scheme does not involve the interests of national security or of foreign Governments.

10. It is clear that not a single one of the call-in criteria is met in the present case.
11. Accordingly, the Secretary of State should decline to 'call in' this Application using the Section 77 powers that he has committed to using in his Written Ministerial Statement "*very sparingly*". As the Under-Secretary of State told Parliament on 26 October 2012 "*Localising decision making and planning is central to the Government's policy*". This is a decision that could and should be made at a local level by LB Barnet and calling it in when it plainly does not raise planning issues of more than local importance would represent a significant departure from the Secretary of State's published call in policy.
12. A prompt decision not to call-in this Application and to lift the holding direction will support the timely delivery of the regeneration of this site and the realisation of the public benefits that will follow.
13. Accordingly, and on behalf of Montreaux, we hereby request the Secretary of State to:
 - a. Refuse the call-in request(s) at the earliest possible opportunity so that this project can resume its progress to grant of permission before 1 April; and
 - b. lift the holding direction without delay.
14. In addition, with reference to the Department's current "Guidance on planning propriety" (dated 16 December 2021) relating to the availability of representations to interested parties, we consider that Montreaux, as the applicant for the proposed development, is entitled to have sight of all and any call in request(s) that have been received (with any necessary redactions). We hereby request that these are provided to us as soon as possible (with any supporting papers that were provided with the correspondence).
15. In view of the above the holding direction is entirely unjustified. It will have the effect of changing the development economics of the scheme in such a way as to make the development unviable, not simply delaying the grant of planning permission but threatening the very delivery of the public benefits that the local planning authority and the Mayor wish to secure.
16. If there is any further information that Montreaux can provide to assist the Secretary of State in making an urgent determination in this matter, please do not hesitate to let us know. The relevant contact at Town Legal LLP is Clare Fielding (clare.fielding@townlegal.com).
17. We would be grateful if you could please acknowledge safe receipt of this letter and we look forward to hearing from you by return.

Yours faithfully

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