

25<sup>th</sup> October 2011

Ms V Ram  
Programme Officer  
North London Business Park  
Building 4, Oakleigh Road South  
London  
N11 1NP

Dear Ms Ram

**Bestway Cash and Carry - Appearance at the Barnet LDF Examination in Public**

I write on behalf of Bestway Holdings Limited, in response to your letter dated 11 October and attachments.

In accordance with your request for us to provide comments "by Tuesday 25<sup>th</sup> October" (no time specified), in relation to the draft NPPF, adopted London Plan and the 'List of Matters to be Discussed at the EiP, Bestway's comments are as follows:

**Comments on List of Matters to be Discussed at EiP**

Bestway's principle concern relates to the LDF's handling of the Brent Cross-Cricklewood Regeneration Area, and in particular the Bestway site at Geron Way.

Bestway notes that the Inspector has produced a list of four questions relating to 'Matter 9 – Brent Cross-Cricklewood'. In addition to these four questions, Bestway considers there are three further questions (which could relate to Matter 9, or potentially Matter 1) which the Inspector should consider, namely:

1. Whether it is sound (or indeed lawful) for the Core Strategy (or any part of the LDF) to rely on documents which do not form part of the agreed suite of LDF documents (as set out in the adopted Local Development Scheme)?

Whilst the LDS refers to the need for future AAP's, the LDS makes no reference to the inclusion of the 'Brent Cross-Cricklewood Regeneration Area Development Framework' as forming part of the LDF. In addition, the UDP would be superseded when the LDF is adopted, thus its policies dealing with the BXC Regeneration Area would have no weight?

2. If the answer to Question 1 is that the Council are able to rely on UDP Policies and an SPG within the LDF (an approach which Bestway and its legal team do not believe to be lawful), then a second question is whether it is sound (and indeed lawful) for the Council to be relying on UDP policies which officers have had to concede (to Bestway, the Planning Committee which determined the BXC outline application, and now the LDF EiP Inspector - the latter in answer to the Inspector's questions) that the UDP is *"less than wholly clear because of confusion and errors that arose at the final adoption stage in the process"* and that *"officers acknowledge that there are unsatisfactory and apparently inconsistent aspects of the text of the UDP in relation to the designation of the Bestway site as the site of a waste handling facility"* (quotes from Para's 4.5.1 and 4.7.8 of the Council's First Addendum to the Brent Cross Cricklewood Outline Application Committee Report - 18/19 November 2009)?
3. If the answer to Questions 1 and 2 are that the LDF is lawful and sound, whether the Core Strategy (or indeed any part of the LDF) is sound (or indeed lawful), since the Council has made no attempt to update the evidence base in relation to the Brent Cross-Cricklewood Regeneration Area?

#### **Draft NPPF Comments**

Bestway has given consideration to how the contents of the draft NPPF affect its case and the soundness of the LDF. We summarise Bestway's comments on this below:

#### **Context**

Draft NPPF states:

LPA's should *"prepare Local Plans on the basis that objectively assessed development needs should be met, and with sufficiently flexibility to respond to rapid shifts in demand and other economic changes"*. (Para 14)

Plans should *"be genuinely plan-led, with succinct Local Plan setting out a positive long terms vision for an area. These plans should be kept up to date and should provide a flexible framework within which decisions on planning applications should be made with a high degree of certainty and efficiency"*. (Para 19)

*"Local Plans should be aspirational, but realistic."* And *"Local Plans should set out the opportunities for development and clear guidance on what will or will not be permitted and where"*. (Para 22)

Plans should *"be kept up to date"* (Para 24)

The Evidence base needs to be *"up to date"* and *"based on relevant evidence"* (Para 27)

In reviewing their evidence base, Council's are encouraged to undertake *"a reappraisal of the suitability of previously allocated land"*. (Para 29)

Planning policies should “... safeguard against the unnecessary loss of valued facilities and services, particularly where this would reduce the communities ability to meet its day to day needs” (Para 126).

#### ***Implications of Draft NPPF for Barnet LDF***

Bestway’s view is that the Draft NNPPF (as outlined above) makes the following points pertinent to its case:

- Local Plans need to be up to date and flexible
- Local Plans need to be objectively assessed
- Local Plans need to be both aspirational and realistic
- Local Plans should include clear guidance
- Local Plans should be based on an up to date evidence base
- Local Plans should reappraise the suitability of previously allocated land
- Local Plans should safeguard against the loss of valued facilities and services

Bestway does not believe Barnet Council’s emerging DPDs accord with these requirements in relation to the handling of the Brent Cross Cricklewood Regeneration Area and in particular the Bestway site at Geron Way. By choosing not to update its policies and evidence base relating to the Brent Cross Cricklewood Regeneration area the LDF is:

- Out of date and inflexible;
- Not objectively prepared (since the UDP and Regeneration Area Framework allocate sites based on the requirements of the Brent Cross Cricklewood developers, rather than based on sound and robust policy making – as illustrated in the errors and flaws which the Barnet Council have previously had to admit to in relation to its historic policies);
- Unrealistic, since the policies are based on a scheme which the Council has had to concede is unviable, and since part of the development cannot be implemented due to third party land ownerships (including the Bestway site at Geron Way);
- Lacking in clear guidance;
- Not based on an up to date evidence base, given that the original UDP Policies and Development Framework were prepared at least six years ago, and these policies were based on older evidence (or no evidence, in the case of the identification of the waste Handling Facility on the Geron Way site);
- Lacking in their reappraisal of potential allocated sites (i.e. no reappraisal has been undertaken of the Brent Cross Regeneration Area, including the need to relocate the waste facility and the suitability of alternative sites);
- Likely to lead to the loss of valued facilities and services (e.g. Bestway’s site at Geron Way ensures that over 1,000 local shops in the Cricklewood area are able to meet the day to day needs of local people. If the Bestway site is required to vacate the site to make way for a waste facility, there would potentially be an impact on local shops meeting the day to day needs of the community).

Bestway considers the above factors are pertinent in the Inspector’s consideration of whether the EiP is sound.

**London Plan Comments**

The London Plan identifies 'Cricklewood/Brent Cross' as an 'Opportunity Area' (illustrated on Map 2.4). The policies relating to Opportunity Areas are set out in Policy 2.13, with criteria C of this policy dealing with the preparation of LDF's in relation to the Opportunity Areas. This policy states:

*"Within LDF's boroughs should develop more detailed policies and proposals for Opportunity Areas and Intensification Areas".*

As noted elsewhere within this letter (and within Bestway's representations), in preparing the LDF the Council has not updated its policies (or evidence base) relating to the Brent Cross Cricklewood Opportunity Area. As such, the LDF is contrary to the adopted London Plan since it does not provide the "more details policies and proposals" for the Opportunity Area.

We would be grateful if the above matters can be drawn to the attention of the Inspector and would be happy to elaborate on them if required. In the meantime, please confirm receipt of this letter.

Yours sincerely



Justin Mills

**Director**

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