July 2019

Car Giant Response to OPDC Appendix 6 - "Cargiant Land Ownership Note"

Car Giant Land Ownership Wembley & Acton

On 5th July 2019, various material was submitted by the OPDC, including a note ("Appendix 6") which examines Car Giant's land ownership, along with the land ownership of its shareholder Geoffrey Warren, and appears to seek to infer that the existence of two sites, owned by Car Giant and Mr Warren respectively, is on its own sufficient to suggest that relocation would be possible within the plan period.

We note that the site plans produced by the OPDC are based on a partial understanding of the leasehold and contractual structure of the various landholdings and, as a result, contain numerous errors. Therefore, in order to provide clarity to the Inspector, we have reproduced the plan (titled 'Appendix 4') to correctly show the dates to which these areas are burdened by existing leasehold interests.

As the ODPC will be aware, on 27th February 2019, DP9 on behalf of Car Giant submitted an explanatory note laying out for the benefit of the Inspector the reasons behind Car Giant's change in position from the representations made to the Local Plan consultations. From this explanatory note we would highlight paragraphs 19 and 20 concerning Car Giant's partially assembled relocation site:

> *19. In August 2018, key leases for the businesses located on Cargiant's partially acquired relocation site began approaching the ends of their terms. As a direct result of the delays in progress resulting from the uncertainty over infrastructure delivery, Cargiant was forced to extend these leases or, in the absence of an outline planning permission, risk breaching it's loan covenants. Restarting this investment process and attempting to acquire a new 45-acre contiguous site within the local area was not considered viable – primarily due to land prices in the area having dramatically increased in recent years as a result of industrial land being lost to the regeneration within the Opportunity Area.*
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> *20. The result of this is that Cargiant has now lost the opportunity to assemble the remainder of the land required and relocate to a new site in 2021 as originally envisaged. The opportunity to bring forward the Cargiant site within the OPDC Local Plan period has therefore now been lost. Until a viable relocation option can be established, Cargiant cannot bring its site forward for redevelopment and as such OOPL now objects to the de-designation of the Cargiant site as SIL and its re-designation for mixed commercial and residential land uses.*

As can be noted from the above excerpt, the plan titled 'Appendix 4', now updated and appended to this document, does no more than confirm the statements made within the explanatory note i.e. that Car Giant was forced to extend leases to prevent breaching the company's loan covenants on its debt facilities and that Car Giant had now lost the opportunity to relocate.

It must be accepted that simply demonstrating that there is a partially assembled site within the ownership of Car Giant, a fact that was openly stated within the explanatory note, is not in of itself sufficient to demonstrate that the relocation of the Car Giant business is either possible within the plan period, or viable in the first instance.

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Challenges to Relocation

In order to make an informed judgement about the feasibility of relocation as a realistic prospect, one must understand the challenges to the viability of relocating its business that Car Giant as a large and successful business would be faced with, both generally in regards to any site and specifically in regard to the two sites highlighted in OPDC's note.

While the two sites which OPDC have identified have site specific challenges, there are a number of challenges to viability which Car Giant will face regardless of the specific circumstances of the proposed relocation site.

1. Forward Funding

For a relocation of Car Giant to be possible, all the associated costs need to be debt funded in advance and at the start of the process.

This represents a considerable financial risk for a lender as the proposed relocation site would change from an income generating asset to a vacant non-income generating asset. The lender's security would then be eroded as value is lost from the asset as lettable units are demolished or adapted for a special use. This phase entails further considerable expenditure and risk in respect of building and equipping a bespoke facility which itself has only one real possible occupier in the market (Car Giant are the only operators of this type and scale).

Throughout this process, which would take several years to complete, the asset would lose income and value. For funding purposes, when considering the risks involved, lenders would be required to offset the higher risk profile through the application of higher interest rates and lower loan-to-value ratios. Only once Car Giant has completed its relocation could funds then start to be recovered from the phased sale of its existing site.

Even if Car Giant were fortunate enough to locate a developer which was willing to pre-purchase Car Giant's site in advance, in order to release funding for this process, the developer itself would need to appraise its own internal costs for providing this funding, as well as the risk associated with future movements in the wider market while Car Giant's relocation took place. In both instances, these costs and risks would reduce the bid such a developer would be willing to make on the Car Giant site.

Forward funding will therefore be a substantial material barrier which requires assessing and, more importantly, resolving in order to properly determine whether relocation will be viable.

2. Redevelopment Costs

Car Giant is, by any standard, a large business and the requirement for a site of 45.9 acres to match its existing site, which houses a myriad of specialist functions, precludes the possibility that a preexisting site could be obtained with a suitable configuration which would not require Car Giant to undertake substantial redevelopment works to adapt it to its operational requirements.

As a high-level illustration of the potential scale that redevelopment costs can reach and how they can affect viability, one simply has to look at just the potential cost of a full site build out, which alone has the potential to invalidate the viability of any proposed relocation.

Within OPDC Appendix 4 at 3.14.6, BNPP suggest that an industrial build out cost of £753 per m^2 is *"not unreasonable",* however they suggest that build out rates may be as high as £1,500 per m^2 for more intensively developed schemes. Using these as our minimum and maximum range as well as the total existing internal area of the Car Giant site (120,843 m^2), we can see that costs for a full build out would be expected to be anywhere from between £90.6m to £181.2m before other development costs such as CIL, demolition or land remediation are accounted for.

While the true costs of any redevelopment and fit out will very much be dependent on the specific circumstances of the proposed relocation site, it should be clear that redevelopment costs will be a material barrier which requires assessing in order to properly understand the viability of relocation.

3. <u>Fit Out Cost</u>

Along site redevelopment costs for the buildings themselves, the processing plant needs to be replicated within the new site.

However, as the existing processing plant is in daily use by up to 800 Car Giant staff, it cannot be removed and relocated without forcing a temporarily shut down of the business whilst this is undertaken, which we do not consider to be a viable option.

Therefore, all the plant and equipment currently in daily use would need to be purchased and replicated at the relocation site prior to relocating the business. The cost of this equipment would need to be assessed and factored into any assessment of viability for any proposed relocation.

4. <u>Phasing</u>

The size of the existing Car Giant site is such that it would have to be redeveloped in phases over a period of up to fifteen years. This is openly acknowledged within both Car Giant's and the OPDC's submissions on viability and therefore should be common ground at this stage.

As has been stated previously, for Car Giant's business to remain viable, it requires any relocation to take place in a single move which would leave Car Giant's existing site vacant and, owing to its bespoke nature and limited future, the site would only have limited appeal for re-letting to 'meanwhile uses'.

Holding the site for the fifteen year phased build out would incur large holding costs, either for Car Giant directly or for any subsequent developer, driving down the viability of any development.

These costs need to be determined in advance and the risks associated with them factored into the level of contingency required within any assessment of viability for the site.

5. <u>Business Failure Risk</u>

As described above, the existing Car Giant operational site could not be developed until a new facility was ready. Due to the minimum lead times (i.e. at least 1 year planning and 2 years redevelopment/build out) there is a material risk that external factors (i.e. political, economic, social, technological, legal or environmental) could result in Car Giant being unable to bring forward development having forward funded the facility for Car Giant to relocate to.

As the OPDC have seen themselves with the dramatic shifts in industrial and residential land values, such movements in the wider market can and do happen and given the lead times required for any relocation of Car Giant to realistically be able to happen, the risk that such a movement may occur is not immaterial and there is a genuine danger that this could fundamentally, even fatally, impact the ability for Car Giant to remain a viable business.

Any assessment of the sites and relocation cost must therefore also include sufficient contingency to address the risk that markets move both over the proposed relocation window and the 15 year phased development of the existing Car Giant site.

6. Acquiring the land and Vacating Existing Tenants

For all potential relocation sites, the land will need to be acquired. Because of the size of the required contiguous site, it is highly unlikely that this would come forward in one transaction, and so a process of land assembly will need to be undertaken. As noted for the Acton site, even here where a number of different land parcels have been acquired, there remain further sites that would need to be acquired in order to provide the contiguous site that Car Giant requires. These sites will all be owned, mostly by private landlords, some institutional, who may not all be willing to sell even for a premium, especially given the rising value of industrial land in West London.

If land cannot be acquired by agreement, then it would need to be compulsorily purchased. This comes at a cost and takes time that would both need to be factored in to any relocation proposal.

Once land has been acquired, then the leases on any potential relocation site would need to be aligned in order to deliver vacant possession to minimise void costs and facilitate redevelopment. Given the high likelihood that any site will have been assembled from a number of different ownerships, the leases which will be in place are not likely to be aligned. Indeed this is currently the case with both the Acton and Wembley sites, so it is unlikely that vacant possession of the required 45.9 acres site can be achieved with any speed or certainly without creating significant void periods as units in effect become blighted as they approach the redevelopment date (i.e. lease lengths would become too short to attract tenants). This leads to holding costs on the vacant units which would need to be accounted for in any assessment of whether relocation will be viable. Conversely, if CPO powers were to be used to secure vacant possession, the cost and time for this procedure would need to be factored in.

7. 1954 Act Protected Tenancies

Within any potential relocation site, there will be tenancies which have been granted protection under the Landlord and Tenancy Act 1954 and indeed there are protected tenancies present at both the Acton and Wembley sites.

This protection gives rise to complications in regards to obtaining vacant possession, firstly as the termination of these leases entitles the affected tenant to claim statutory compensation equivalent to one, or even two, years rent.

Secondly, the protections afforded by the 1954 Act can be, and are, regularly abused by tenants in order to extend lease terms. Active opposition to a statutory section 25 notice to terminate a lease can easily delay obtaining vacant possession by months, or up to a year if formal court action is required, which given the lead time required for relocating a business the size of Car Giant, could create significant additional costs.

The cost and risks associated with these leases, therefore, also need to be assessed in order to properly determine whether relocation will be viable.

8. Planning Permission

It cannot be overlooked that the relocation of Car Giant will require planning permission to be agreed both in respect of its relocation site and also in respect of the redevelopment of its existing site before any relocation can be confirmed. The risk of not securing both planning permissions, or having no certainty on the cost of relocation, would be too great.

In respect of Car Giant's relocation site, given the scale and nature of the premises that Car Giant will require, the costs associated with securing a planning permission for a relocation site would be considerable. Uncertainty would also need to be resolved regarding the terms on which planning was to be granted, including understanding the mitigation required to make the development acceptable so that the cost of developing new premises could be factored into the build out.

Given the scale and nature of the Car Giant facility, securing a planning permission has the potential to be controversial, and at least would require a significant period of pre-application engagement, consultation and design work to arrive at an acceptable proposal which mitigated its impacts on surrounding sites and met the requirements of the relevant Development Plan. Assuming a planning permission is granted, there are a myriad of planning requirements which could potentially be applied to a new site which can add cost or delay to implement. For brevity we name below a short selection:

- **Noise restrictions and any associated mitigation** - the Wembley and Acton sites abut residential uses and it is not unreasonable to expect noise limitations to be imposed which would have implications for the design and delivery of the new facility
- **Trading times restrictions** - the Wembley and Acton sites abut residential uses and it is not unreasonable to expect operating limits to be imposed
- **Minimum/Maximum Permitted Site Coverages** - Car Giant's workshops currently enjoy a very high site coverage which is not accommodated by modern planning standards. This has the potential to inflate the minimum size required for Car Giant's workshops on the proposed relocation site.
- **Environmental and Sustainability Performance** – Any site that require redevelopment will to be required to be rebuilt to current day environmental and sustainability standards, both of which will contribute to higher build costs
- **S106 contributions/CIL liability** – any impacts of the new facility will need to be mitigated, and this could include contributions towards matters including transport, employment and training, car park management/CPZ, ecology, environmental management etc. Net new floorspace would attract CIL in accordance with the relevant charging schedules.
- **Highway works** – Given the scale and nature of Cargiant's operations, it is likely that works will be required to the local highway network in order to make the Cargiant proposals acceptable. These works would need to be funded by the development and secured through a section 278 agreement with the relevant highway authority.
- **Remediation** – it is possible that some of the sites, if used for heavy or dirty industrial processes, could require site remediation works before redevelopment can commence.

In respect of Car Giant's existing site, a developer would be required to purchase the Car Giant site and fund the relocation of the Car Giant in advance of building out the residential scheme.

As will be clear, for planning, design and build out of a relocation site and the relocation of Car Giant itself to be viable, a price has to be agreed with this hypothetical developer prior to any move taking place and, given the scale of the development, no reasonable developer is going to take on the risk of developing out such a large site without first reaching agreement with the local planning authority on key issues.

For example, issues such as the level of affordable housing can drastically affect the viability of a scheme and, as can been seen throughout the submissions from Car Giant and the OPDC, there is significant disagreement over what level of affordable housing is viable on the site. There would be no certainty on this until a planning permission is granted.

It is therefore highly likely that any incoming developer would require the certainty of an outline planning permission before it would even consider acquiring the Car Giant's existing site or underwriting Car Giant's relocation.

To be clear, Car Giant, having lost £8.6m in its previous attempt to bring forward a planning application, have neither the appetite nor the desire to bring forward a new application for an outline planning permission. Further, and for the avoidance of any doubt, London and Regional, while previously providing planning input into Car Giant's aborted scheme, have since been formally disinstructed and no longer have an involvement with Car Giant or Old Oak Park.

Any future planning risk will therefore need to be borne by the future developer of the Car Giant site and, as can clearly be seen, these costs can be substantial and the risk that an application may fail is very real.

Cost and risks associated with bringing forward planning, therefore, will be reflected in the price any developer is prepared to pay for the site and certainly need to be factored into any assessment of viability.

9. <u>Additional Costs</u>

It should be noted that, long as this list is, these are only some of the headline costs relevant to the issue of relocation. Consideration should also be given to the further material costs that would need to be accounted in any final assessment.

While not exhaustive, any final assessment would also include, for example, costs such as loss of staff, retraining new staff, loss of profits, costs for advertising the new site, the extensive costs of reprograming our bespoke in-house work flow management systems and the costs related to teething issues around setting up and occupying a replacement facility that would be incurred.

<u>Site Specific Issues</u>

In addition to the general challenges highlighted above, both the Wembley and Acton sites contain within them site specific issues which would need to be addressed and resolved in order for any relocation to be demonstrated as viable.

<u>Acton Site</u>

It should be noted that the plan provided by the OPDC, intentionally or otherwise, underrepresents the extent to which the Acton site is burdened by long lease interests.

Attached to this document at Appendix 1 is an updated copy of this plan which more accurately details the earliest possible release dates for land at the Acton site.

In terms of the size of the site, while the OPDC have noted that the Acton site comprises 41.15 acres, what should become immediately obvious from Appendix 1 is that fully one third of the site is unavailable until 2033. Although, even this is technically an underrepresentation as it has been assumed that the rights across the site which are held by the Shell petrol station located to the north of the Acton site, whose lease does not end until 2092, can be acquired at an economic price.

Even ignoring this, it should be clear that no land mass of a size which would be capable of housing even a partial relocation of the Car Giant processing or retail operations could be made available within the Acton site for almost a decade, and even then several years of lead time would need to be added to account for the time required to demolish, develop and reconfigure the site. Therefore, in terms of suitability, the question arises of how the housing allocation of the Car Giant site could possibly be delivered within the plan period, should Car Giant be unable to even start commencing a relocation process for 15+ years.

It is noted at paragraph 6.38 of the OPDC's executive summary that the OPDC has offered "*that it would be willing to consider using its statutory compulsory purchase powers in order to assist Cargiant in securing vacant possession of its preferred relocation site*". However, what is notably absent is any suggestion as to which party would bear these costs, but regardless of where they fall, these costs would be significant and would have to be factored into the viability of relocation.

Even without the use of CPO powers, the majority of tenants on the site have leases which are protected by virtue of the Landlord and Tenancy Act 1954 and are therefore entitled to statutory compensation on the termination of these leases, with the majority again having greater than 14 years occupancy and therefore an entitlement to double statutory compensation under the 1954 Act, which in this instance runs into millions of pounds.

Significant development costs would be incurred in demolishing and building out the site as current buildings are not fit for purpose. For example, bowling alleys, restaurants and cinemas are not likely suitable for conversion to retail or industrial usages and engineering feasibility assessments which Car Giant undertook of the only large building on the site brought to light significant and prohibitive costs for reconfiguration and conversion.

Finally, and as stated within DP9's explanatory note, the site has only been partially assembled.

While on paper, suggestions from the OPDC that 41.15 acres is sufficient for relocation might on the face of it appear reasonable, this ignores the reality of the layout and configuration of the site. For example, fully 25% of the site cannot be accessed without using public highways. These unconnected sites were originally purchased with a view that land between could be purchased to join the operations, however the rapid growth in industrial land prices in recent years and the changing aspirations of the institutional investors have rendered their acquisition financially prohibitive.

Unfortunately, accessing these sites using the public highways is not commensurate to Car Giant's production processes which requires thousands of vehicle movements each day including work-in-progress vehicles which may have no MOT or tax, and vehicle that are between processes and are therefore not in a roadworthy condition.

Parts of the site are also unusable for Car Giant's specific production/retail use due to their size, their non-contiguous nature or the fact that Car Giant do not have full control over the relevant areas, leaving them open to the public or other business users due to other freehold interests, existing leases, or current highway restrictions. Notable examples of this include the large park to the south of the site, or the island units along Dukes Road which are both small and isolated.

So, as stated within DP9's explanatory note, the Acton site is very much only a partially assembled site and remains unsuitable for relocation considering the reasons listed above.

Wembley

Again, as with the Acton site, it should be noted that the plan provided by the OPDC, intentionally or otherwise, misrepresents key details of the site. Specifically, in its reference to "land owned by Geoff Warren and Car Giant Ltd Directors".

To clarify, neither Car Giant nor its directors have any ownership interest in the land highlighted orange on the OPDC plan marked "Appendix 1". The land with Land Registry title number NGL793933 is owned by Geoff Warren directly and the land with Land Registry title number NGL205071 is owned by Bullgate Ltd, of which Mr Warren is the sole shareholder.

While this distinction may seem minor, it does bear re-stating that Car Giant do not consider relocation to be viable and therefore are not a willing developer and are not proposing to release its land for residential redevelopment. As such, the only feasible way for the existing Car Giant site to become available is through the use of the OPDC's CPO powers. Under such circumstances, because the land highlighted in orange is not owned by Car Giant (circa 80% of the site) there is no legal rational under which the land highlighted in orange can be considered within any future CPO proceedings. It is therefore the case that any future CPO proceeding will be on the basis of whether or not it is viable for Car Giant to relocate to the Acton Site (which was originally acquired for that purpose) or another hypothetical site should OPDC be able to identify one, which we do not consider to be likely. As such, this site should be entirely disassociated from the Car Giant business for the purpose of this Local Plan consideration.

However, legal realities aside, there is good reason why Wembley is not an appropriate relocation site for Car Giant.

For context, unlike the Acton site which was specifically acquired with relocation in mind, the Wembley site was purchased in 2001, roughly a decade before the earliest mention of HS2, the Old Oak Common Station or the suggestion of redevelopment of Old Oak Common. It is therefore a demonstratable fact that it was not purchased for the express purpose of relocating Car Giant.

The site was purchased by Geoffrey Warren for its investment potential, and indeed the site is an excellent investment and very successful business which has seen uninterrupted double digit revenue growth for almost a decade (Note: its year on year revenue growth for 2018 was 29%) and the estate also has significant redevelopment value and intensification potential.

Both Car Giant and the East Lane Business Park are very successful businesses in their own right and Mr Warren does not consider that it would be prudent to spend millions of pounds in a relation to a process which would entail the extinguishment of hundreds of local business tenancies at East Lane Business Park in order to seek to provide a relocation site for Car Giant which would be less suitable in business terms than its existing site.

Indeed, regard must also be given to the significant social and economic impacts on the local area if Car Giant were to relocate to Wembley. The estate itself is a major source of employment in the local area and the properties which would need to be vacated would displace up to 705 existing occupational tenants, which is in addition to the 216 being currently proposed to be displaced at Old Oak Common. It is no exaggeration to state that this would have a negative effect on the local economy, would likely create barriers to Car Giant obtaining planning permission not least of all from objections from the affected tenants and, with the loss of so much industrial land in the local area, it is very probable that there is currently insufficient capacity in the local area to absorb these displaced businesses.

Again, as with the Acton site, significant development costs would be incurred demolishing and building out the site as current buildings are not fit for purpose. The buildings of the Wembley Estate were almost all constructed in the 1930's, are fragmented and unsuitable for Car Giant's requirements and therefore virtually the entire site would require redevelopment.

The Wembley area itself also suffers with serious traffic congestion, both in normal operation and also more acutely on Wembley Stadium event days, of which there are many. The operational challenges which such a location would present, along with the loss of profits arising from the inability of customers to reach the site on event days, and often at our peak times, cannot be discounted out of hand.

As a final point, the OPDC is keen to stress that it wishes to assist Car Giant to facilitate a relocation. It should therefore be noted that the Wembley site is located outside of the Park Royal area and consequently it is outside of OPDC's area of authority.

While there are real questions as to what assistance the OPDC is actually able to provide Car Giant given its limited funding, it is clear that assistance such as pragmatism in the granting of planning permission or use of compulsory purchase power to facilitate the OPDC's core development goals, would not be available.

Conclusion

While we have not sought to address within this document the quantum of the viability challenges which a relocation of the Car Giant business would face, it will be clear that these costs are substantial and the resolution of these challenges far for straight forward.

Throughout this process, Car Giant have been both open and honest regarding its attempt to acquire a relocation site, the fact that the site had only been partially assembled and the circumstances under which its ability to utilise the site was lost. The note provided by the OPDC does nothing more than confirm the factual nature of these statements and fails to demonstrate in any way how either site may be brought forward or how any relocation could be viably funded.

It is clear, therefore, that the suggestion by the OPDC that the existence of these landholdings supports the idea that relocation could be possible in the plan period is simply incorrect.

Appendix 1 – Latest Lease Termination Date by Site