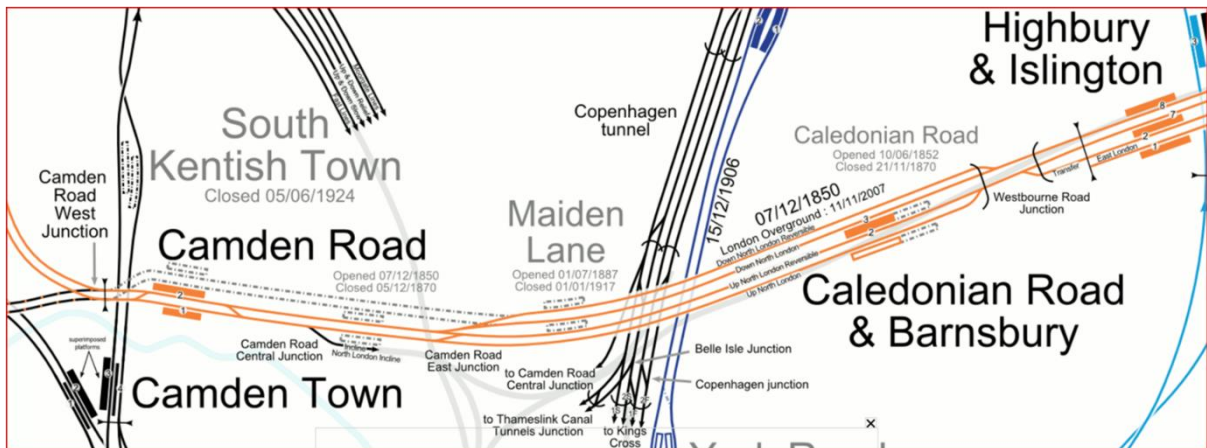


APPLICATION 2022/2019/P: 'CAMDEN HIGHLINE'



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We are the campaign group '**FUTURE TRANSPORT LONDON**' and collaborators, and we wish to **OPPOSE** this planning application, in this joint submission.

2022/2019/P is contrary to national and London strategic planning policy and at odds with some Camden policies.

The application must be decided on its merits with no assumptions that there will ever be a further phase. There would have been an option for a 'hybrid' application, including the rest of the project in outline. That would regularise the status of much of the submitted planning documentation of 2022/2019/P provided by the applicant, which otherwise can never be democratically tested. The Planning Authority will need to explain what advice it has offered.

Instead of an outline application for the whole project, there is a full application for part of it. Permission should be refused on grounds of prematurity, otherwise the Authority would be acting unreasonably.

The Planning Authority will know that determination of planning applications is extensively covered in case law, including Wednesbury reasonableness and past cases on irrational decision-making.

Further, the unique selling proposition of this project - that the railway corridor involved is likely to be unwanted for a considerable period – is contradicted by published material that the applicant chooses not to include in its submitted documentation.

Absurdly, there is no material that covers the removal of the proposed infrastructure and its financing.

As submitted, this is not a credible 'meanwhile' project, but a permanent one.

Planning Officers must acknowledge that fact, and that consent would permanently undermine Network Rail's published aspirations for the UK's rail freight industry and Transport for London's plans for increased London passenger railway capacity.

(1) THE PROJECT'S NAME

We think it is highly misleading to call this a 'highline', because it is dissimilar to all other known examples, whether proposed or actually opened.

For instance:

- The ***New York Highline*** is a converted freight-only elevated railway, permanently abandoned because of reductions in commercial demand and the use of road vehicles instead
- The ***Paris Highline*** (La Coulée Verte) is a permanently abandoned section of the Vincennes railway line, where passenger demand is now met by Metro lines and tracks diverted into the regional RER 'Paris Crossrail' service
- The proposed ***Birmingham Highline*** uses the Great Western Railway's brick viaduct in Digbeth, built 165 years ago and never opened as a railway
- The soon-to-open ***Manchester Highline*** is on the unused Grade II-listed Great Central Railway's Castlefield Viaduct. At one end of it, the main line station is now a conference centre. At the other end, Metrolink trams have taken over the track bed
- The proposed ***Peckham Coal-Line*** in south London uses the abandoned London & North-Western and Midland Railway's coal sidings, to the east of Peckham Rye station.

Unlike all the others, the Camden proposal is on operational railway land.

Application documents refer to a 20-year period, perhaps extended to a 30-year period. Comments on BBC Radio 4 aspired to it being there "in perpetuity". Indeed, return to railway use would not be straightforward, financially and perhaps politically.

(2) THE RAILWAY CORRIDOR INVOLVED

Some Londoners will remember FOUR tracks in use on the east-west North London Line across Camden, when various main line trains were diverted to Camden Road station while Euston station was being rebuilt in the 1960s.

Many more people will remember three Camden tracks in use when freight trains avoided the passenger service platforms. Freight trains and some passenger trains to Watford Junction ran through Primrose Hill station, and that route is still an active diversionary route for London Overground.

Although freight trains are slow, modern passenger trains have such high acceleration that the two-tracks-only railway bridge over the A400 Kentish Town Road is no longer a realistic bottleneck:

Regeneris Consulting has produced for the scheme's applicant a document

Camden Highline Benefits Analysis, May 2018

renamed in the application as

Camden Highline Benefits - Final Report, May 2022

(so, there isn't a later one!)

Paragraph 2.12 of the document states:

“This (that is, the A400 railway bridge) **would appear to reduce the operational benefit of reintroducing four tracks to the east of Camden Road Station.**”

Regeneris do not offer any evidence they have the railway expertise to credibly make such a significant claim.

Planning Officers must either state they reject that assertion by Regeneris, or offer guidance to Committee Members on maximum train traffic levels and headways (distance or duration at specific line speeds) on this two-track railway's A400 Kentish Town Road bridge.

It is important that Officers comment to Members on the extensive documentation that has been submitted that goes beyond the actual application.

Officers must confirm that:

(a) under the Planning Acts, extensive documentation in an application to provide 'context' has its limits, because the proportion and extent must be 'reasonable', and

(b) there is confusion on whether there is an opportunity in consideration of 2022/2019/P for the Planning Authority to test all parts of submitted documentation, given it has not been tested under the Planning Acts already, and, at this rate, may never be tested.

Not to clarify the statutory process would breach the Aarhus Convention (the UK-ratified international treaty, the **United Nations Economic Commission for Europe's 'Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters'**).

In regard to point (a) above, will Officers agree they cannot reasonably give any impression that the whole of the project's route is being considered in 2022/2029/P, and that any further planning applications that might come forward could not rely in any way on the submitted 'context documentation' supposedly 'approved' in this application by Committee?

In planning terms, does the Authority believe that wider documentation cannot be considered under the Authority's statutory planning powers, in regard to locations outside the boundary of this application, at this stage?

If Officers disagree with that, they must say so and give precedent, or they will be acting unreasonably.

It is certain that further applications would be needed from the applicant, since their overall proposal goes far beyond Network Rail's deemed planning consent for operational railway land, available to it under the Town and Country Planning Act 1990 (as amended), Section 90.

In regard to point (b) above, Officers must point out to the Committee there has been no attempt by the applicant to offer the Planning Authority a 'hybrid' application; that is, one that seeks outline planning permission for the whole project and full planning permission for just one part of it.

Does the Planning Authority know why? Has the Authority suggested that? Are pre-application discussions with applicants published by the London Borough of Camden, as happens with other authorities?

Overall then, the documentation on parts of the project that lie beyond the boundary of the application has an ambiguous status – given the limited scope of 2022/2019/P

freely chosen by the applicant, at what stage is it to be tested under the Planning Acts?

The wider documentation nevertheless needs to be challenged, even though it is outside the scope of the application.

As a somewhat minor example, there seems no documented consideration (perhaps even by Network Rail) of future technical infrastructure sites to support additional traffic on the existing two-track railway.

New signalling cabinets need new areas of land for their construction before existing sites are taken out of service. More intensive freight and passenger services on existing tracks often need additional trackside power supply equipment, and locations to house them. Unlike increasingly miniaturised signalling cabinets, power supply structures invariably get bigger. Where are the agreed and documented passive provision sites for such infrastructure, including providing reasonable safe and efficient access?

(3) ATTITUDE OF NETWORK RAIL, THE RAIL FREIGHT INDUSTRY AND TRANSPORT FOR LONDON

The application's

Camden Highline Benefits - Final Report

(from 2018) states in Paragraph 2.10 that:

“Network Rail (the owner of the asset) have indicated their willingness to enter into an agreement to lease the available asset.”

The application's **Masterplan** document (dated May 2022) states that on page 12 that:

(a) ***“Network Rail, which currently own and maintain the viaduct structure, actively support the project and have undertaken businesses and technical clearance proving its feasibility.”*** and

(b) ***“Transport for London have confirmed that they have no need to reinstate the tracks for passenger capacity”.***

In regard to point (a) above, there is no claim in the application that Network Rail has given strategic clearance from

- Network Rail senior management, or
- the Department for Transport

to support the proposal.

What does “indicating a willingness” mean? Why is none of this interaction with Network Rail documented, so that it can be tested?

Does the project have ‘full clearance, subject to contract’, or has Network Rail so far merely considered it favourably because it would be an income-generating matter?

What level within Network Rail has been involved? What documentation has been produced? Why isn't it in the planning application?

‘Technical’ clearance is not the same as policy or strategic clearance.

In regard to point (b) above, the Transport for London

“no need to reinstate”

comment above is false, as evidenced by documentation that the applicant has chosen not to provide as part of this application.

In more detail:

(3a) Network Rail

Officers should make clear to the Committee what the policy is of Network Rail Strategic Network Planning. Its remit is to understand:

- how the railway contributes to national and regional economic growth and improvements in social well-being
- what the railway is capable of and how it delivers a service to passengers and freight users
- what the likely changes to demand, passenger needs and patterns of train service will be in the future

- what kind of changes to the railway as a whole we should make in future.

There is no indication in the application of sign-off by Network Rail Strategic Network Planning. This is a UK strategic route, including for freight to and from east coast and Thames estuary container ports. Freight on railways reduces freight on London's roads.

Planning Officers must decide, by investigation, if they consider the 2022/2019/P proposal to be compliant with detailed statutory obligations imposed on Network Rail by the Department of Transport:

- ***“pursuant to the Railways Act 1993 or any other enactment or any licence granted to the Company”***, and
- ***“to carry on the business of acquiring, owning, managing, providing, operating and developing railway network services and station services in all their aspects.”*** [Underlining added.]

Officers must report to Members whether the claimed ***“willingness”*** quoted in the application is also compliant with the overall methodology of Network Rail's

‘Executive Guide to Consents for Infrastructure Projects’

since the proposal, though small scale, has strategic aspects of national significance that are normally dealt with in much larger projects. The guide explains that, for those larger projects:

“The Planning Act 2008 created the ‘Infrastructure Planning Commission’ (IPC) as the authorising body established to process ... nationally significant projects. This body was abolished in the Localism Act when its powers transferred through to the Planning Inspectorate. Responsibility for decisions on these projects rests with the relevant Secretary of State.”

The current version of the administrative document

‘Framework Agreement Between the Department for Transport and Network Rail’

points out that:

- ***“Network Rail with all of its subsidiaries is now classified by the Office for National Statistics as a central government body”***, and
- ***“the Secretary of State will ensure that Network Rail is guided and monitored in the public and taxpayer interest”***, and

- ***“the Secretary of State as customer sets the long-term strategic vision and develops the policy framework within which NR is required to operate”.***

Removal of future rail capacity across the London Borough of Camden is not ‘reasonable’ within the Network Rail parameters described. If Planning Officers disagree, they must provide Members with evidence on this matter.

(3b) Transport for London

The application’s

Camden Highline Benefits - Final Report

(from 2008 but still apparently current in 2012) states that the applicant:

“has received verbal confirmation from TfL that they do not have ambitions to reinstate the track to live use as a priority capacity improvement on the North London Line and are awaiting a final report”.

A verbal policy is not good enough. Furthermore, there is no specific update on that verbal level of agreement in the planning application.

However, regarding the text that has been underlined above, there is good news!

The definition of ***“final report”*** is unclear (needing lengthy business case studies to be “final” perhaps) but **there is NOW a “final” report, produced by Network Rail Strategic Network Planning.**

The new study (“the final report”?) is the

‘London Rail Freight Strategy’

which was published in May 2021 (so looking beyond the period of Covid).

The report has not been mentioned by the applicant in their application 2022/2019/P.

The summary report states that:

- “freight stakeholders identified the development of a London Rail Freight Strategy as a strategic planning priority.

“The London Assembly Transport Committee also recommended the development of a joint rail strategy for London with Network Rail and the

wider industry in its 2018 ‘Broken Rails’ report, a key component of which should be a freight workstream”, and

- “the London Rail Freight Strategy thus has dual roles, as both a study to produce strategic advice for the Government, within NR’s Long-Term Planning Process, and as a workstream forming part of the developing NR and TfL Rail Strategy for London”, and

- “Network Rail intends to seek funding to deliver core elements of this strategy through the Department for Transport’s Rail Network Enhancements Pipeline [which is...] a new approach for rail proposals that require government funding.

“This approach creates a rolling programme of investment, focused on outcomes that provide benefits for passengers, freight users and the economy, and moving government investment in enhancements away from a rigid 5-year cycle”, and

- “the development of this strategy and the identification of options for funders has been informed by capacity analysis, focused on the London orbital routes” [Underlining added], and

Quoting further from the Network Rail report, the first intervention mentioned in it (so maybe the highest aspiration and therefore hardly 30 years away!) is:

“CAMDEN ROAD PLATFORM 3

“Reinstatement of a third track and platform on the northern side of Camden Road station, utilising part of the former 4-track formation through the station.

“This proposal would reinstate a third track and platform on the northern side of Camden Road station, utilising part of the former 4-track formation through the station.

“The additional capacity provided would facilitate much greater flexibility in pathing options for trains on this busy central section of the North London Line, opening up new options for future service provision and bolstering performance resilience.

“Reinstatement of a third platform would enable platform 2 to be used as a central turnback, with [the still existing, but unused] platform 3 becoming the eastbound line for through London Overground services and the majority of freight.

“Transport for London modelling suggests that the eastern end of the North London Line, from Canonbury to Stratford, will see some of the strongest long-term demand growth on the Overground network.

“A turnback platform will allow this to be addressed with peak-capacity-boosting Stratford-Camden Road services and there would also be the option to operate these through the off-peak. [This would] offer a means of providing additional passenger capacity where it is most needed.

“The availability of an additional platform would also aid performance recovery during perturbation on the orbital routes”.

This Network Rail strategic report is not mentioned in the application. Why not? Does the Planning Authority need to insist that it is?

How will Officers address this crucial matter, and represent it to Committee Members?

Given the publication of that Network Rail strategic report, further comment needs to be made regarding

Camden Highline Benefits - Final Report, May 2022

since Paragraph 4.12 states that:

“to bring the disused lines between Camden Road Station and York Way back into operational rail use would require substantial reinforcement works to the bridge structures along the route that have fallen into disrepair over time”.

That is indeed so. It is typical of any rail development project. That’s what they do.

As another example, this Network Rail/rail freight industry/Transport for London report that has been ignored by the applicant has a second, similar case of intended investment which is worth quoting in detail:

“CLAPHAM JUNCTION PLATFORM 0

“The longstanding proposal for the creation of additional bay platform capacity at the northern end of Clapham Junction station, for the use of London Overground West London Line services, is supported by this strategy.

“The scheme would reinstate the disused former platform 1 to create a newly designated ‘Platform 0’, adjacent to the present platforms 1 and 2. This intervention has been recognised as key to long-term growth on the West London Line by several previous pieces of work for both Network Rail and Transport for London, which have consistently concluded that additional platform capacity at Clapham Junction is needed, if TfL’s aspiration to increase the West London Line Overground service to six trains per hour is to be met.

“Capacity analysis for the London Rail Freight Strategy has reaffirmed that the desire to operate this level of service throughout the day cannot be achieved with a single bay platform.

“Although this scheme would clearly be of direct benefit to the London Overground passenger service, the positive impact it would have on the capacity and performance of the West London Line overall means that it is also very much in the interest of freight that Platform 0 be delivered.

“Without a new bay platform, the main alternative means to increase Overground train frequencies involves the use of platform 17 at the far [southern] end of the station, where freight and Govia Thameslink Railway trains pass through towards the Brighton Main Line. This is a sub-optimal solution for both freight and passenger operations.”

That lengthy quote is justified because it describes an equally rusting viaduct structure as the one in Camden. It describes a rail industry scheme of similar complexity and cost to the one in Camden. And it is likely to proceed in a similar timeframe to the one in Camden, and certainly not 20 or 30 years in the future.

The London Rail Freight Strategy will be developed in an unknown future economic climate of course, but it aspires to have all its projects completed by the 2040s.

With a centuries-old history of continual railway investment as freight markets and passenger numbers change (and usually increase) some of the aspirations will doubtless proceed earlier, some later. The climate change commitment of the government now in statute can only accelerate that investment, particularly when involving modal shift.

The Camden track reinstatement will need to progress through established railway processes. There are many unknowns:

- how quickly DP World’s new London Gateway container port in Essex increases North London Line rail freight traffic demand to and from the West Coast Main Line (the Euston line)

- how quickly overcrowding on London Overground trains to, and through, Camden Road station becomes unacceptable

- what opportunities there are for modal shift of freight and car travel from London's roads, including the enlargement of the Ultra-Low Emission Zone to outer London, and the likelihood of the introduction of road pricing

And so on.

Choosing to deliberately stop dead the possibility of a Camden North London Line railway scheme for 20 or even 30 years is unacceptable. It would be an unreasonable use of the statutory Planning Acts by the London Borough of Camden. Any unacceptable encouragement by Network Rail staff of the applicant's plans must also be withdrawn.

That is not to say that alternatives, such as refurbishing parts of Camden Road station and nearby green space at ground level are not great ideas.

However, interfering with operational railway land on the viaduct above is unacceptable, given how many years the applicant apparently requires it. Virtually everything at that level would have to be undone. It is also not transparent exactly how all that would be paid for.

(4) VIABILITY AND RISKS

The application's **Masterplan** document (dated May 2022) states that on page 12 that:

“The Camden Highline was included in Sadiq Khan’s 2021 manifesto for London, and Camden’s Labour Group manifesto.”

Officers will need to explain if or how either of those facts legitimately influences them and their recommendation to Committee, under the Planning Acts.

The Masterplan continues:

“Network Rail, which currently own and maintain the viaduct structure, actively support the project and have undertaken businesses and technical clearance proving its feasibility. Transport for London have

confirmed that they have no need to reinstate the tracks for passenger capacity.”

Both of those misleading claims, directly copy-and-pasted from the **Camden Highline Benefits - Final Report** of 2008, have been criticised above, the first by queries, the second by condemnation. Furthermore, why is there no crucial documentation from the original sources in the application?

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Where is there a complete description of the freehold ownership of the land within the application boundary?

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The submitted document from Lichfields

Planning Statement – Phase 1

is described as having a purpose to:

“set the proposals in context and then appraise the proposal against prevailing planning policy and other material considerations” and

“considers the acceptability of the proposed development against the National Planning Policy Framework, the statutory development plan and other material considerations.”

It also states that:

“the application proposal accords with the Statutory Development Plan [both the 2021 London Plan and the 2017 Camden Plan] and should therefore be granted planning permission without delay. There are no other material considerations which indicate otherwise.”

Oh, yes there are!

Lichfields have clearly not searched for any other ‘material considerations’, so they have not found any:

- The fact there is no credible evidence to claim this is merely a ‘meanwhile’ project is ignored. Officers must surely consider that is a material consideration, or state why not.

- The fact that Network Rail Strategic Network Planning has published a recent report that is completely at odds with the claims (of permitted

meanwhile use for 20-30 years) is ignored. Officers must surely consider that is a material consideration, or state why not.

The Planning Statement also states that:

“This Planning Statement assesses the proposed development in the context of relevant national and local planning policy. This Statement should be read alongside the various other reports which accompany the planning application.”

Indeed it should. Many of the documents would be identical if an outline application were to be submitted for the whole project. So why hasn't a hybrid application been submitted? What did Officers state and note down on that subject at the pre-application meetings? Is that information published, as with other planning authorities (such as the Mayor's development corporations)?

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The Planning Authority's

Statement of Community Involvement

of 2016 points out in Paragraph 2.23:

“The Localism Act 2011 places a ‘duty to co-operate’ on local planning authorities and neighbouring boroughs for any cross boundary issues. There is also a requirement for the local authority to co-operate with various public bodies for any cross-boundary issues. These bodies play a key role in delivering local aspirations and cooperation between them and local planning authorities is vital in order to make planning policies as effective as possible on strategic cross-boundary matters. The duty is to co-operate, not to agree.”

Under the responsibilities of the Localism Act, has the Authority presented the choice to neighbouring authorities and the Greater London Authority, between:

- the benefits of this (effectively permanent) project, and
- potential road traffic reductions in those neighbouring authorities and across London, of freight and car traffic via modal shift, based on the Network Rail, rail freight industry and Transport for London aspirations in the published report from Network Rail Strategic Network Planning?

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Can the Planning Authority confirm that it considers it reasonable, regarding this transport project involving UK rail freight strategy and London passenger services, that a consultee should also be the Department for Transport? If not, why not?

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Since the Office of Rail and Road (a) produces statistics of rail usage and (b) is the competition authority for the private-sector rail freight industry, does the Planning Authority agree it should also be a consultee, to ensure rail freight traffic through Camden Road station is not unacceptably constrained from private-sector competition for the next 20 to 30 years?

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Will the Planning Authority demand documentation on the removal of this project's 'meanwhile' infrastructure, both physical details and financial arrangements, before progressing this application (and does that include the whole route)?

Does it share a disbelief that successful fund-raising in the community for its removal is possible in 20- or 30-years' time?

What financial alternatives would be acceptable to the Authority, in a modified business plan? Ought there to be an enforceable sinking fund, independently administered? How would payment failures be policed?

Who would be financially responsible for removal, if the project's controlling entity became insolvent and was dissolved at an unexpected time within the next 20 or 30 years?

What contingent liability for future costs would the state, including the London Borough of Camden, need to take on, potentially continuously for the next 20 or 30 years?

Contingent liability is a potential liability that may or may not occur, depending on the result of an uncertain future event. The relevance of a contingent liability depends on the probability of the contingency becoming an actual liability, its timing, and the accuracy with which the amount associated with it can be estimated.

Would contingent liability be reflected in the annual accounts of the London Borough of Camden? Would Camden refuse to take on any such liability and seek to transfer it to other state bodies? Would Camden require acceptance of the latter before progressing the project?

Does the London Borough of Camden consider that there is too much optimism bias in the 2022/2019/P application documentation, and an unacceptable quantity of risk analysis? Are Finance Officers prepared to sign off, in a separate published document, their views on that matter, to be quoted by Planning Officers, and that financial conclusions in the application contain sufficient sensitivity analysis?

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Does the London Borough of Camden consider the 'visitor numbers' and the 'transport usage figures' of the project (apparently predicted to be less and less by locals, and more and more by tourists, as time goes by) to be credible, and with sufficient sensitivity analysis?

What data has been provided to the Authority regarding, for instance, conclusions in the

Camden Highline Benefits - Final Report, May 2022

and the

Camden Highline Business Plan

on financial and usage numbers, to allow independent analysis, including sensitivity and possible optimism bias? Will the Authority insist on such data publication?

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Why is there no reference at all in the two supplied

Transport Statements

(or anywhere else in the 2022/2019/P documentation) to the Network Rail, rail freight industry and Transport for London aspirations in the published report from Network Rail Strategic Network Planning?

Given the claimed 20 to 30-year duration of the project, does the London Borough of Camden consider it essential that a quantitative comparison must be made by the applicant, comparing:

- transport benefits of the scheme, with
- transport benefits of the aspirations in the published report from Network Rail Strategic Network Planning (that is realistic extra freight carriage tonnage, increased rail passenger numbers to/from/through Camden Road station, and reduced use of London roads due to modal shift).

And if not, why not?

(5) PUBLIC POLICY

On any reasonable interpretation, all the above material makes 2022/2019/P non-compliant with the National Planning Policy Framework and climate change policies of the government.

The London Plan requires a rebalancing of the transport system towards walking, cycling and public transport. It said nothing about promoting a deliberate reduction in railway capacity in London, to be replaced by walking. Do Officers wish to argue otherwise?

The same argument applies to the Camden Plan.

Camden's Planning Guidance on Transport cannot credibly be supportive of removing opportunity for increased railway capacity for UK rail freight and for London's wider rail passenger network. It would not produce conformity with the Camden Plan's Policy T3: Transport Infrastructure.

In fact, Policy T3 states exactly the opposite of the position of the applicant:

“The Council will seek improvements to transport infrastructure in the borough.

We will:

(a) Not grant planning permission for proposals which are contrary to the safeguarding of strategic infrastructure improvement projects; and

(b) Protect existing and proposed transport infrastructure, particularly routes and facilities for walking, cycling and public transport, from removal or severance.”

Officers need to implement currently-adopted Camden Plan policy, and recommend rejection of application 2022/2019/P.

(end of objection)