

**LAND IN AND AROUND FORMER AERODROME, NORTH ORBITAL ROAD, UPPER COLNE VALLEY,  
HERTFORDSHIRE APPLICATION (DCLG Appeal Reference: APP/B1930/A/09/2109433)**

**REPRESENTATIONS ON BEHALF OF HELIOSLOUGH LIMITED 20<sup>th</sup> December 2011**

1. We write in response to your letter of 29<sup>th</sup> November 2011 and restrict our comments to:
  - a. new matters raised in the further representations (and therefore do not repeat or go over matters already addressed); and
  - b. the new policy documents referred to in paragraph 2.

**New Policy and Guidance Documents**

2. The Logistics Growth review demonstrates the very substantial growth potential of rail freight (if appropriate SRFIs in appropriate locations are provided).
3. The SRFI Policy Guidance (“the SRFI Policy”) demonstrates the stark inadequacy of existing provision and the very limited potential to deliver adequate facilities at existing RFI. Thus the intention of the SRFI Policy is to “support the growth of freight traffic on rail by addressing the shortage of appropriate [RFI] sites in some areas by giving a *clearer statement of Government intent*” of strong support for appropriately located SRFIs (third page). The policy set out unambiguously strengthens the strategic policy and need case for a network of SRFI sites to serve London as essential elements of a national network to “maximise the economic, environmental and social benefits of transferring freight movements from road to rail” (first page of the SRFI Policy). It confirms our client’s case that “should a rail freight interchange be constructed it will attract business, generally new to rail” (fourth page) and the SoS has already concluded in two decision letters that all the requirements for successful SRFIs to serve London set out in the SRFI Policy are amply met by the Radlett site.
4. We note that the correspondence from the DfT and Network Rail confirms the need and that there is no reason why the site at Radlett cannot meet that need. It is to be noted that all the matters in sections 3 and 4 of the Network Rail were raised and considered at the 2009 Inquiry.

**St Albans District Council**

5. We respond only to the key new points (in accordance with paragraph 1 of your letter).
6. “*Like for like*” (para 1 SADC): there is no intent to apply “unjustified pressure” on the SoS. *Res judicata* would not prevent our client pursuing the point following a fresh decision and for the reasons explained in detail and not rebutted, the basic point raised by our client is correct.
7. *Conditions and S.106* (para 3 -6): no criticism is made of the definitions proposed for alternative 2 to work. The sole issue previously identified by the SoS can therefore be taken as overcome (2010 DL 33). Our client does not understand the claimed flaw in the proposed

alternative 2 set out at the end of paragraph 6 which appears to be based on a misunderstanding of: (1) the law; and (2) what is being proposed. The structure proposed is lawful and appropriate for reasons already explained in detail and not previously doubted by the SoS.

8. In respect of alternative 1 (para 7), policy and guidance has always made a clear distinction between positive obligations to do “x” and Grampian conditions preventing “Y” until “X” is delivered. Alternative 1 is a straightforward application of the SoS’s own current guidance contained in the 2002 Letter.
9. *“Nothing has changed”* (para 13): this is an absurd submission. It is correct that nothing has changed in terms of the inability to meet the identified need other than in a Green Belt location. However the approach of the SoS to GB and SG policies at Colnbrook (which was the fundamental conclusion) has been found to be unlawful because he sought to downplay CP2 (High Court para 84); misunderstood the policy (HC82) and consequently ignored the “very high bar” posed by the policies properly understood (HC87). It is impossible to read HCJ paras 78 – 87 as only finding an inadequacy of reasons (para 15). The “essential” test cannot be met at Colnbrook given the existence of an acceptability alternative at Radlett (para 17). We would refer the SoS to our previous written statements and in particular to para 71 of our written statement of 12 October 2011.
10. *The Growth Agenda*– (para 19). It has always been the policy that growth should be sustainable. There is no change in substance to the “sustainability” requirements since the 2009 Inquiry. What has materially changed is the increased emphasis on sustainable economic growth as emphasised by the Written Ministerial Statement of 23<sup>rd</sup> March 2011.
11. *Lack of Development of SRFI shows lack of demand* (para 21). Our client (with the support of DBS) is pursuing this application (at very substantial expense) because it is convinced that there is a pressing need for it. The fact another site to the south of London has not come forward tells one nothing about the prospects for this site coming forward.
12. *Comparative assessment of Colnbrook/Radlett in Goodman Alternative Site Assessment* (para 22). Our client’s detailed critique of the Goodman ASA was subject to rigorous analysis by Slough BC and was largely adopted by it in deciding to refuse permission. Para 22 is therefore not understood. Goodman (section 3) make no attempt to explain why our conclusions in respect of their ASA are wrong. This was their chance to do so. Accordingly, there is no evidential basis upon which the SoS can conclude that Colnbrook might be found to be better.

### **Other Representations**

13. The representations from Goodman and STRIFE add nothing to matters already addressed and therefore further comment would be duplication.