

## BY POST AND EMAIL

Ms Christine Symes  
Department for Communities and Local Government  
Zone 1/H1  
Eland House  
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LONDON  
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16347/A3/SF/jp

28 September 2012

Dear Ms Symes

**APP/B1930/A/09/2109433 AND APP/J0350/A/12/2171967**  
**APPEALS BY HELIOSLOUGH LTD AND GOODMAN LOGISTICS DEVELOPMENT (UK) LTD**

We write in reply to your letter of 19<sup>th</sup> September 2012, which was copied to me as the agent for the Colnbrook appeal proposal. This response is also on behalf of Mr Crossland and Mr Scambler of Goodman, who also received a copy of your letter.

We have also seen a copy of the letter dated 27<sup>th</sup> September 2012 on behalf of Helioslough Ltd. As set out below, we agree with Helioslough that the two appeals should not be co-joined, and that it is imperative that the Secretary of State reaches a decision on Helioslough's proposals shortly, although not for entirely the same reasons as expressed by Helioslough.

Our client is vehemently opposed to the co-joining of the two appeals, and does not accept that this is likely to lead to a more coherent and consistent decision making process overall.

Our client sought the adjournment of its own inquiry so that the Secretary of State's decision on the Radlett appeal could inform the participants to that inquiry, and the appointed Inspector, on the Secretary of State's view on the need for SRFIs in the South East following the Secretary of State's decision to revoke the South East and East of England spatial strategies and the publication of interim policy guidance on SRFIs. This was on the understanding that the decision on Radlett would be issued shortly following the written representations procedure that had been decided upon. As you know Goodman had been pressing for a timetable for the decision to be issued, which was not provided. However, it was indicated that the decision would be expected in the near future. The interim guidance on SRFIs emphasises the need, of course, for a network of SRFIs to encourage a modal shift of freight from road to rail, particularly in the South East where the policy guidance notes an absence of SRFIs.

In the light of that interim policy guidance, issued in November of last year, and indeed prior to that, it has been our client's clearly stated view that there is a need and role for SRFIs at both SIFE and Radlett and that the two are not in competition for a single planning permission. The Statement of Case issued by Helioslough, as a Rule 6 party to the SIFE appeal, agrees that there is scope for more than one SRFI.

Certificate No. FS 29037



The Secretary of State will also be aware that the need for both sites as part of a network is recognised and strongly supported by Network Rail and significant rail freight operators such as DB Schenker. Network Rail's most recent representations in respect of the Radlett appeal confirm that it is quite clear that SIFE and Radlett are not competing schemes aimed at the same market and also that multiple SRFIs are needed given that the South East has been starved of sites to date. Recent correspondence from DB Schenker (enclosed) confirms that there is no debate about which site is to be preferred, because the industry needs both if it is to meet the specific objectives of the interim policy guidance.

There is, therefore, common ground between the two appellants and other significant stakeholders that the premise behind the proposal to co-join the two appeals, i.e. that there is a need to compare the relative merits of the two proposals, is misplaced. The position of both appellants is that to prepare detailed new evidence as to the comparative merits of the two sites would be entirely wasteful in the current policy framework, and will not therefore assist the Secretary of State in reaching his decision. There is no sound reason why the parties should be put to the significant cost and delay of preparing for and attending a public inquiry; the underlying premise for which both appellants consider is misplaced.

It should be noted that Goodman's position is not that on a comparative assessment it performs less well than Radlett as an SRFI. But the point is that such comparison does not fit within the policy framework within which Goodman's appeal (or indeed any re-opened Radlett appeal) must now be determined.

If the two appeals were to be co-joined, we are not clear as to how the Secretary of State envisages that they would be dealt with in practical terms. Is it the Secretary of State's intention, for example, that a different Inspector be appointed to consider Radlett and SIFE (a different Inspector to the Inspector who heard the last Radlett inquiry)? For Goodman, we see this as being necessary in the interests of fairness, as the last Radlett Inspector has of course already reported to a degree on the comparative merits of the two sites. Goodman would therefore strongly object to the appointment of either previous Radlett Inspector to hear a co-joined appeal as suggested by Helioslough in the letter of 27<sup>th</sup> September 2012. In addition, Goodman would object to a co-joined inquiry where somehow a comparative assessment were to be undertaken only reaching factual conclusions in respect of Colnbrook and not Radlett. This would plainly be unfair and prejudicial to Goodman.

There are, in our view, very real practical and evidential issues arising from the proposed co-joining of the two appeals and the Planning Inspectorate's letter of 7<sup>th</sup> September 2012 acknowledges that sequential consideration of the two appeals would enable the SIFE appeal to proceed more efficiently. Helioslough, St Albans District Council and other interested parties to the Radlett appeal have, of course, produced Proofs of Evidence (now three years old) which have been tested and concluded upon by an Inspector in the public domain. The Proofs of Evidence for SIFE would be new. If any new Inspector is to report on the two appeal sites, it is difficult to see how this would not lead to a de novo approach and a new raft of evidence in relation to the Radlett appeal proposal. The Secretary of State will then be faced with two Inspectors' reports on the Radlett appeal, with inevitably different views or emphasis on key matters affecting the Secretary of State's determination of that appeal.

We are not aware of any precedent for co-joining appeals where one of the two co-joined appeals has already been the subject of a full public inquiry, Inspector's reports and decision by the Secretary of State. A decision to co-join the two appeals at this late stage, even if handled in the most scrupulous way, inevitably introduces unprecedented complexity and grounds for potential legal challenge.

In our client's view, informed by leading Counsel's advice, this will almost inevitably lead to a further High Court challenge, irrespective of the Secretary of State's decision.

Against the pressing and acknowledged need for a network of SRFIs to serve London and the South East, the cost, delay and uncertainty of a further Radlett public inquiry and almost inevitable High Court challenge is clearly counter to the Secretary of State's recently stated policy.

We note that Helioslough are also strongly opposed to the proposed course of action, which they too consider to give rise to a potential legal challenge, and are unsurprisingly dismayed by this further delay in the decision on their appeal. Any challenge to the Radlett decision arising from a co-joining of the two appeals will, of course, also delay the implementation of any planning permission granted on appeal for SIFE.

It could very well be that given the various serious concerns raised in this letter our client would feel obliged to withdraw its appeal in the event that the appeal is co-joined with the Radlett appeal. That is not an approach that our client would wish to take, particularly having delayed its own appeal as long as possible to allow that appeal to proceed in the knowledge of the Secretary of State's decision on the remitted Radlett appeal.

We trust that this will not be necessary and the Radlett appeal will be determined shortly on the basis of the representations invited and received by the Secretary of State.

Yours faithfully



**SIMON FLISHER**  
Director

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10<sup>th</sup> August 2012.

Dear Secretary of State,

### **Strategic Rail Freight Interchanges**

You will recall that we met last Monday at the Olympics Park event and that with others we discussed several topics. I told you of my company's interest in the proposed Rail Freight Interchanges at both Radlett and Colnbrook. Given the circumstances, I understand that you cannot make specific comments. Nevertheless, I hope you will accept this letter as evidence of this company's sincere belief that rail freight can meet your government's stated objective of a large-scale shift of freight from road to rail and help achieve the associated economic and environmental benefits.

Network Rail is making solid progress on upgrading the lines themselves but it is essential that the industry creates new facilities through which to handle that growth in freight. With very few exceptions, most existing rail yards are at least 50 years old. They are of a design and in locations that reflect pre-war conditions in both demographic and industrial contexts. Society has changed radically over the last seventy years; the ability of the rail infrastructure to service those changing needs has not kept pace.

London and the wider South East England together account for almost 30% of the UK population. The region has the highest growth forecasts and the highest spend per capita in the country yet there is only one modest facility (at Barking) capable of handling a limited number of intermodal trains. If Radlett and Colnbrook operate to capacity – and we think they will within a very few years – they alone could handle volume equivalent to 12% of the 6.3m TEU containers currently landed at the south-eastern ports each year. That traffic then only travels a short distance by road to its final market rather than adding to congestion on the M3 or the A12. This is a simplistic approach, but it illustrates the potential.

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This company supports Radlett and Colnbrook as sites for new SRFI's. There is no debate about which is to be preferred; the industry needs both if it to meet the specific objectives set out in the DfT's Policy Guidance Paper of last November and the several policy statements of the preceding seven years. My colleagues and I will, of course, be pleased to explain our thinking more fully if you wish it but I do ask that you bear these points in mind in the meantime.

Yours sincerely,

Jonathan Moser  
Head of Business Development, Logistics