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BY POST AND EMAIL

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16347/A3/SF/djg

14th October 2011

Dear Ms Symes

**APP/B1930/A/09/2109433: LAND IN AND AROUND FORMER AERODROME, NORTH
ORBITAL ROAD, UPPER COLNE VALLEY, HERTFORDSHIRE
APPEAL BY HELIO SLOUGH LTD
APPLICATION REF 5/09/07/08**

1. Introduction

Further to your letter of 15th September 2011 in connection with the above planning appeal, we are pleased to provide representations on behalf of our client, Goodman Logistics Development (UK) Ltd ('Goodman'). Goodman are an interested party in the planning appeal, because they own land at Colnbrook which has been previously identified as a potential alternative site for development as a Strategic Rail Freight Interchange. Goodman have also previously engaged with the planning appeal, for example through the submission of previous representations.

2. Scope of Representations

It is noted that the Secretary of State has invited representations on three matters. Matters (a) and (b) relate to the Appellant's proposed Unilateral Undertaking. Goodman does not intend to make representations in connection with these matters.

However, Goodman does make representations below in connection with Matter (c), which is as follows:

"Any new matters or change in circumstances which the parties consider to be material to the Secretary of State's further consideration of this appeal".

Certificate No. FS 28637



3. Planning Policy Context

In the period since the Secretary of State's decision letter of 7th July 2010, there have been some refinements in the strategic planning policy context for Strategic Rail Freight Interchange development. In particular, the East of England Plan and South East Plan are now subject to a revised process of revocation, a replacement London Plan has been introduced and the draft National Planning Policy Framework was published for consultation purposes in July 2011.

Notwithstanding the above refinements in the strategic planning policy context, it is not anticipated that the previous conclusion of the Secretary of State on 7th July 2010 that "very considerable weight" should be attached to the need for Strategic Rail Freight Interchanges to serve London and the South East (decision letter Paragraph 28) would require revisiting at this stage, for the following reasons:

- In considering the implications of the revocation of Regional Spatial Strategies, the Secretary of State has previously acknowledged that "the general support for the provision of SRFIs" remains whether or not the Regional Spatial Strategies form part of the Development Plan (decision letter Paragraph 7);
- In terms of overall need, the supportive 2011 London Plan provisions in respect of Strategic Rail Freight Interchange developments are not materially different to those of the 2008 London Plan;
- There has been no change in the status or relevance of the policy documents of the former Strategic Rail Authority and Department for Transport, to which the Secretary of State previously made reference (decision letter Paragraph 10);
- The provisions of the draft National Planning Policy Framework in respect of Strategic Rail Freight Interchange developments are not at odds with the well established planning policy context which has been previously taken into account by the Secretary of State.

In terms of local planning policies, it is noted that St Albans District Council have not progressed beyond the preliminary stages of the Local Development Framework in the period since July 2010. As such, the Secretary of State's previous conclusion that the document is at "consultation stage" and should therefore be afforded "little weight" (decision letter Paragraph 11) is unaffected.

Likewise, the adoption of the Slough Site Allocations DPD in November 2010 provides no new policy context for Goodman's land interest at Colnbrook. Furthermore, in respect of Goodman's land at Colnbrook, the Site Allocations Inspector's Report (dated 31st August 2010) specifically defers to the Core Strategy in respect of Goodman's proposed Strategic Rail Freight Interchange at Colnbrook, as follows:

"3.81. So far as the Core Strategy is concerned, I note that changes to the document recommended for soundness reasons refer to a proposal for an intermodal freight exchange on a large tract of mainly open land situated to the north of the Colnbrook bypass. Amongst other things the changes identify a number of key matters that would need to be addressed if and when a planning application for such a facility is submitted. In effect the paragraphs in question provide helpful guidance to any prospective developer(s) and set the policy context for any future decision".

As such, the local planning policy context for a Strategic Rail Freight Interchange at Colnbrook, as set out in the Development Plan for Slough Borough, has not materially changed in the period since July 2010.

4. Goodman's 'SIFE' Planning Application at Colnbrook

The Inspector's Report dated 19th March 2010 and the Secretary of State's decision letter of 7th July 2010 discuss Goodman's proposed Strategic Rail Freight Interchange at Colnbrook, which is known as the Slough International Freight Exchange ('SIFE'). Particularly relevant sections are Paragraphs 13.99-13.103 of the Inspector's Report and Paragraphs 22-25 of the Secretary of State's decision letter.

We can confirm that the current status of Goodman's proposed Strategic Rail Freight Interchange at Colnbrook, relative to the position at 7th July 2010, is as follows:

1. The Inspector and Secretary of State previously recognised that Colnbrook is a location where Goodman are actively progressing a proposal for a Strategic Rail Freight Interchange and this remains the case;
2. Goodman's previous representations in response to the appeal served to confirm that the active promotion of the Colnbrook site has included (1) representations to the emerging Development Plan; (2) pre-application discussions with the Local Planning Authority and other stakeholders; and (3) public consultation with local residents including an exhibition. Goodman's representations to the appeal inquiry also confirmed that a planning application was at an advanced stage of preparation;
3. In the period since 7th July 2010, Goodman have continued to progress the proposed Strategic Rail Freight Interchange at Colnbrook in a manner which is consistent with the previous appeal representations;
4. Goodman submitted a planning application for the development of a Strategic Rail Freight Interchange at Colnbrook to Slough Borough Council on 27th September 2010 (ref P/14961/000). The planning application was submitted in 'outline' and accompanied by supporting documentation including a Planning Statement, Design and Access Statement and Environmental Statement. The planning application incorporates a 'very special circumstances' case for development in the Green Belt, which refers to the acknowledged need for Strategic Rail Freight Interchange development, an Alternative Sites Appraisal, together with other benefits including opportunities for improvements to the footpath and bridleway network, biodiversity and landscape. The proposed development was substantially in accordance with the draft proposal which formed part of the previous appeal representations;
5. Slough Borough Council refused the planning application on 8th September 2011;
6. Goodman do not agree with Slough Borough Council's decision to refuse the planning application and it is Goodman's intention to lodge an appeal with the Planning Inspectorate.

Helioslough Ltd have made representations to Slough Borough Council in connection with Goodman's planning application, including in relation to the relative merits of Colnbrook and the Appeal Site as locations to accommodate a Strategic Rail Freight Interchange, to which Goodman have responded. Helioslough Ltd's representations in relation to Goodman's planning application are disputed by Goodman. Whilst Slough Borough Council refer to Radlett as a potential alternative, it is noted that this question is a matter for the Secretary of State and Helioslough Ltd's representations in connection with Goodman's planning application have yet to be examined in the context of a planning appeal in respect of Goodman's proposal at Colnbrook.

It can therefore be concluded firstly that Goodman's overall approach to the Strategic Rail Freight Interchange proposal at Colnbrook remains consistent with that expressed in previous representations and a specific proposal at Colnbrook has progressed through a planning application and will continue to progress through an appeal in due course. Secondly, it can be acknowledged that, although Helioslough Ltd have made representations to Goodman's planning application, those representations are disputed by Goodman and have yet to be examined in the context of a future planning appeal in respect of Goodman's proposal at Colnbrook.

5. Slough Borough Council's 'Strategic Gap' Policy

Your letter of 15th September 2011 makes reference to the Order of the High Court which served to quash the Secretary of State's decision letter of 7th July 2010. We have noted that the High Court Judgment of 1st July 2011 considers the application of the 'strategic gap' policy which has been developed by Slough Borough Council and can comment in more detail on this matter as follows:

1. There has been no change to Slough Borough Council's 'strategic gap' policy since 7 July 2010;
2. Goodman's previous representations to the appeal provide a commentary regarding Slough Borough Council's 'strategic gap' policy;
3. Goodman's previous representations confirmed that Slough Borough Council's 'strategic gap' policy is at odds with the policy approach applied by other equivalent Local Planning Authorities responsible for the Green Belt periphery of London;
4. Goodman's previous representations commented on the 'historic' nature of Slough Borough Council's 'strategic gap' policy. The particular weight to be given to a local strategic gap policy, and whether such policies are consistent with contemporary national planning guidance¹, will be a matter for the Secretary of State to consider on Goodman's appeal;
5. The High Court quashed the Secretary of State's decision for failure to give adequate reasons. The judgment does not, and of course cannot, address the weight that should be applied to the 'strategic gap' policy by the Secretary of State;
6. It also seems relevant to note that the High Court Judgement was not concerned with any particular planning balance relating to Colnbrook or the extent to which the 'very special circumstances' advanced in a case for development in the Green Belt at Colnbrook could constitute 'material considerations' that could be weighed in the balance against any failure to comply with Slough Borough Council's 'strategic gap' policy (In the event that it was concluded that the development of a Strategic Rail Freight Interchange at Colnbrook did not comply with Slough Borough Council's 'strategic gap' policy).

Next Steps

In light of the representations that are detailed above, we can confirm that Goodman are not seeking for the public inquiry in relation to the appeal to be reopened. Nevertheless, we trust that our representations will be taken into account in the determination of the appeal.

We trust that these representations are of assistance in the determination of the appeal and please do let me know should you require any additional information at this stage.

Yours sincerely


SIMON FLISHER
Director

enc. Strategic Gap and Green Wedge Policies in Structure Plans - extract

¹ Which since the 2001 Government report "Strategic Gap and Green Belt Policies in Structure Plans" have militated against such local designations. A relevant extract from the report is enclosed.



Enclosure - Strategic Gap and Green Wedge Policies in Structure Plans - extract

- 6.5 The House of Commons Environment Committee have suggested that where the functions of strategic gaps and rural buffers overlap with those of Green Belt, consideration should be given to according them the same status. This study suggests that strategic gaps and green wedges do have one or two purposes in common with Green Belts, but that rural buffers do not. Strategic gaps share the purpose of avoiding coalescence, but do not share any other key attributes. As used to date strategic gaps do not have:
- the same level of presumption against development;
 - the same level of permanence, not being long-term as defined in PPG2; and
 - the need to demonstrate exceptional circumstances for the adjustment of boundaries.
- 6.7 Strategic gaps, rural buffers and green wedges are thus more flexible than Green Belts, being open to possible adjustment at each review of the structure plan. They currently operate as a second order restraint, in contrast to Green Belts which are a first order restraint. In the context of searching for new land for development, second order restraint areas can be considered along with other possible locations (such as urban brownfield land or sites on the edges of urban areas and villages). In the case of land designated as Green Belt, only in exceptional circumstances can it be released for development.
- 6.9 Taking the essential elements from structure plan submissions, EIPs and SoS decision letters, the features of strategic gaps appear to be those listed in Table 6.1. The key attributes are that strategic gaps would be strictly limited in scale, being only the minimum size needed for their separation role. They are useful where the authority wishes to avoid coalescence between substantial urban areas, but where a Green Belt cannot be justified.

