

18 October 2012

Christine Symes  
Department for Communities and Local Government  
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Our ref                    GALLIMOM/2963145  
Matter ref                U0475/00015

Dear Ms Symes

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 78 APPEAL BY HELIOSLOUGH LTD  
LAND IN AND AROUND FORMER AERODROME, NORTH ORBITAL ROAD, UPPER COLNE VALLEY,  
HERTFORDSHIRE  
APPLICATION REF: 5/09/07/08**

We are the solicitors acting for Helioslough in connection with the above referenced appeal. We refer to your letter of 19 September to CgMs and the detailed response (the "Response") enclosed with CgMs' letter of 27 September. We also refer to your letter of 12 October.

The Response made clear our view that any decision to re-open the inquiry would be unlawful and irrational. It requested the Secretary of State to confirm that he will not re-open the inquiry or cause a joint inquiry to be held, and that he will move rapidly to a decision on Radlett within a set period.

Your letter of 12 October appears to indicate that the Secretary of State is now consulting the parties further on the issue of a conjoined inquiry, but without having addressed the following matters:

- (a) You have not provided the clarification which was specifically requested in our Response; and
- (b) You have not addressed all of the points raised in the representations which parties have submitted – only a selection of those points have been addressed.

No explanation is given in the letter for this approach.

Whilst the Response made clear our opposition to a conjoined inquiry, it also very specifically requested a clarification from you on the Secretary of State's position as to the scope of any conjoined inquiry. The Response set out our client's understanding of the position and requested immediate confirmation that our client's understanding is correct. The Response then made clear that the comments which followed were based on the assumption that our client's understanding was correct and requested urgent clarification if it was not correct.

It may be helpful if we repeat in this letter the relevant parts of the Response:

"Request for Clarification

2. *The approach in your letter appears to be that the Secretary of State ("the SoS") wishes to consider further evidence on the comparative merits of the two schemes. We require clarification as to what that means in terms of the scope of any conjoined inquiry.*
3. *Our understanding is as follows:*
  - a. *it is not part of the SoS's intention to re-open consideration of the site specific issues on Radlett in respect of which clear conclusions have been reached and in respect of which there have been no material changes in circumstances; and*
  - b. *the scope of the "conjoined inquiry" will be to consider the comparative merits of the sites with factual conclusions being reached in respect of Colnbrook and then those conclusions being compared with the existing site specific conclusions in respect of Radlett; and*
  - c. *necessarily therefore, the re-opened Inquiry will be before Mr Mead who heard the earlier inquiry into Radlett and who will therefore be able to make a proper comparison.*
4. *Please confirm immediately that our understanding is correct.*
5. *The comments below are based on the assumption that the above points are correct. If our understanding of the intent is not correct then please urgently clarify what is the intent as to the scope of the inquiry and provide us with additional time to respond.*
6. *Your answer to paragraph 4 above will form the basis of all our decisions as to what future steps we take (including in terms of preparation for any inquiry and other legal action currently being considered). We require your response forthwith."*

Your letter of 12 October has not addressed or responded to the request for confirmation clearly set out in paragraph 4 of the Response. The letter simply encloses copies of representations received from all parties, highlights and responds to some but not all of the issues raised by various of the parties in their responses and repeats statements contained in your letter of 19 September that the Secretary of State considers that the Radlett and Colnbrook schemes "raise similar and inter-related issues".

Having taken great care to set out in the Response our understanding as to the proposed scope of any conjoined inquiry and having requested confirmation that our understanding is correct, we had expected a reply to that specific point. The Response was, as is made clear, framed around that understanding. We do still require a reply on that point as a matter of urgency.

At this stage therefore, and on the continued assumption that our understanding of the position is correct, we can only repeat the detailed points made in the Response. In particular, we repeat that any decision to reopen the inquiry would be both unlawful and irrational and that our client requires a decision on its appeal to be provided promptly. We reiterate that we do not accept that there is any power to reopen the inquiry for the reasons set out fully in the Response. Those points have not been addressed in your letter of 12 October.

Accordingly, our position is as follows:

1. We require an urgent confirmation, as set out in paragraph 4 of the Response i.e. that our understanding of the position regarding the proposed scope of any conjoined inquiry is correct. If that confirmation is given we are content to rely on the Response and the detailed reasons which it contains as to why the reopening of the inquiry is both unlawful and irrational and therefore inappropriate.
2. If our understanding is not correct we require the clarification set out in paragraph 5 as to the proposed scope of any conjoined inquiry and (as was stated in paragraph 5) we require additional time to respond. In that case, we require 14 days from the date of the clarification letter in which to respond further.

We look forward to hearing from you as a matter of urgency. As I am sure you are aware our client has been waiting for a decision on the re-determination of its appeal since 26 April, the final date for representations relating to NPPF. This followed your letter of 29 March, which set out a new timetable for a decision letter on or before 13 June. As indicated by some of the responses you have received to your letter of 19 September a further delay is not in the interests of any party. We have to make it clear that if you do not proceed as we have requested we reserve our client's position generally on this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'PP V Dh Cu', written in a cursive style.

Michael Gallimore