



St Albans
City & District Council

Legal, Democratic and Regulatory Services

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Our Ref: L/11682/ML/bam

Your Ref: APP/B1930/A/09/2109433

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Date: 18 January 2013

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Ms Christine Symes

Decision Officer

Department for Communities and Local Government

Zone 1/H1

Eland House

Bressenden Place

London SW1E 5DU

Dear Madam

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 (RADLETT)

APPLICATION REF 5/09/07/08

The Council is in receipt of your letter dated 20 December 2012 in-respect of this appeal by which the Secretary of State has concluded that he is minded to grant planning permission for the development.

The Council notes of course that the decision is, at the present time, interim and that the Secretary of State view is subject to the receipt of a satisfactory section 106 agreement. Plainly, no planning permission has yet been granted and there is no decision that can be properly challenged in respect of this decision.

Nevertheless, the Council notifies you that the decision at the present time is flawed. The errors in the decision are allied to the errors which have been made in the Secretary of State's decision not to conjoin the Radlett appeal with the Colnbrook appeal. That decision is the subject of a separate letter before claim sent by this Council dated 18 January 2013.

The Secretary of State has purportedly taken the view in his letter of 20 December, in spite of the significance throughout the history of these proceedings of the Colnbrook alternative, that he "*sees little reason to conclude that Colnbrook would meet the needs for an SRFI in a less harmful way than the appeal site*" (decision letter at paragraph 32). That view stands contrary to the position which the Secretary of State took when he reached his first decision on 7 July 2010 and contrary to the view taken by the Secretary of State between September – October 2012 that the Radlett appeal should be conjoined with the Colnbrook inquiry.



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The decision fails to take into account the lack of any proper and adequate comparative assessment of the relative merits of Colnbrook and Radlett, a situation which led the Secretary of State to conclude prior to the 14 December 2012 that it was appropriate to conjoin the Colnbrook and Radlett appeals. Nor does the decision deal at all with the significance of the changes introduced by the National Planning Policy Framework in relation to the strategic gap policy of relevance to the Colnbrook appeal which the Council has already made submissions upon to the Secretary of State.

Furthermore, the decision fails to grapple with the fact that the matters raised by the Appellant in relation to the strategic gap issue were as much at play when the Secretary of State considered it necessary to compare the detailed position of Colnbrook and Radlett position as when he reached his current decision. The Secretary of State's assessment of the position regarding Colnbrook is entirely inconsistent with his reasoning in the original decision of July 2010 as well as the Secretary of State's conduct following the quashing of that decision. The change of position stands wholly unexplained. This strongly indicates that the decision was reached either on an irrational basis or by taking into account an immaterial consideration, for example, the plain lack of any evidence to persuade him out of the view he had previously taken that he had insufficient evidence to reach a conclusion on the relative merits of the two schemes and that Colnbrook might be less harmful than Radlett.

It was, moreover, a decision which failed to deal adequately or at all with the proper policy basis for considering the national policy position in respect of Green Belt issues by which the need to establish very special circumstances is made a central consideration and to which other policy considerations contained within the general presumption in favour of sustainable development contained in the NPPF should be subordinate.

For these reasons, the Council requests that the Secretary of State reconsiders his decision and decides either (a) that it is appropriate to refuse planning permission given that Colnbrook might be less harmful than Radlett or (b) that the decision in the Radlett appeal should be suspended pending the conjoining of the Colnbrook and Radlett appeals as has been set out in the Council's letter before claim.

Yours faithfully



M Lovelady LL.B. (Solicitor)
Head of Legal, Democratic and Regulatory Services