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4th March 2014

By email only: pcc@communities.gsi.gov.uk

A/strife

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

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

Thank you for your letter of 19th February 2014 together with a new planning obligation and covering letter from Hogan Lovell.

Although we are grateful for the opportunity to comment on the planning obligation, given that it is largely in accordance with that agreed at the 2009 Planning Inquiry, we have no further comments to make in respect of this document.

We are, however, extremely concerned that the Secretary of State has not invited further comments on material changes in circumstances. The Secretary of State is required to determine the appeal on the basis of the up-to-date position (see: *Price Brothers (Rode Heath) Ltd v DoE* (1979) 38 P & CR 579; *R (Kides) v South Cambridgeshire DC* [2003] 1 P & CR 19) and, given that some 14 months have elapsed since the Secretary of State's 'minded to approve' decision, we believe that any final decision must now take account of the material changes in circumstances that have occurred during this intervening period. We draw attention to three in particular, namely:

1. Network Rail's Capability Analysis of the Radlett proposal;
2. Developments in respect of the alternative site at Sundon Quarry; and
3. Emergence of the London Gateway container port.

We address these in turn.

1. Network Rail's Capability Analysis

This report was produced in December 2013 and concludes that the junction speed of 25mph, as proposed by Helioslough Ltd, prevents or imposes significant restrictions on trains entering and leaving a SRFI at Radlett.

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As a consequence Network Rail will require a junction speed of 45mph in order to accommodate the development.

Whereas we cannot comment on the significance of this change in terms of either feasibility or cost, suffice it to say these findings must surely have to be addressed before any decision can be taken on whether planning permission should be granted.

2. Sundon Quarry

Since December 2012, there have been two significant developments which make Sundon a more suitable alternative to Radlett for a SRFI.

Firstly, Network Rail have completed the Sundon freight loop, a 2.5km section of track which will allow heavy stone trains to be overtaken by faster passenger trains. The length of the loop allows freight trains to continue moving whilst being overtaken. Importantly, this loop would also provide the access to a SRFI at Sundon allowing SRFI trains to enter and leave the network with greater ease than can be shown at Radlett.

Secondly, work starts later this year on the North Dunstable Relief Road including the construction of a new Junction 11A on the M1 motorway. Apart from connecting the new relief road to the motorway, this junction would also provide direct motorway access to and from a SRFI at Sundon Quarry and would therefore be an infinitely superior solution to Radlett which relies upon routeing all SRFI traffic on some of the busiest roads in the County in order to gain access to and from the motorway system.

We believe these two infrastructure developments demand Sundon be reconsidered as an alternative to the proposed site at Radlett.

3. London Gateway

There are three strands arising from the emergence of this container port:

- a) the effect upon the viability of a SRFI at Radlett;
- b) challenging the very special circumstances in respect of Radlett; and
- c) challenging the 'need' argument for SRFI in London and the South East.

We address these in turn.

Viability

London Gateway is the newest deep sea port in the United Kingdom and became operational in November 2013 when the first container ship was unloaded. It includes a vast rail-linked logistics park and is only 10 miles by dual carriageway from the M25 motorway. Whilst creating growth in the logistics sector, the port also offers economic advantages for shipping lines and logistics companies wishing to deliver to markets in London and the South East.

The proposal for the Radlett SRFI predicts 12 inbound trains each day of which 5 are shown to originate from the ports of Felixstowe and Southampton. Given that London now has its own deep sea terminal offering economic advantages over other deep sea ports, the likelihood of Radlett ever receiving those 5 trains is remote at best. This must surely call into question the viability of a SRFI at Radlett.

Very Special Circumstances

As the Radlett site is Green Belt, the developer has to demonstrate their development has 'very special circumstances' (VSC) which clearly outweigh the harm caused to the Green Belt, by reason of inappropriateness, and any other harm. In this case the VSC are based entirely on the premise of moving freight from road to rail. The potential loss of the Southampton and Felixstowe trains severely weakens what was already a weak VSC case for Radlett.

The Need

The 'need' was set out in the SRA's 2004 policy document which stated there should be 3 or 4 SRFI to serve London and the SE. This statement has been repeated countless times over two Planning Inquiries, indeed it is the very bedrock on which the development proposal is made.

Paragraph 8.126 of the 2010 Inspector's Report, noting the Council's case, states:

"The problem with Radlett is that it is a short distance from the primary deep sea ports, particularly Felixstowe and Southampton; at distances under 120 miles or less rail is commercially not cost effective against road movements to ports"

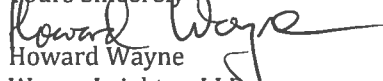
A road journey of 75 miles puts London Gateway in reach of all parts of the M25 and therefore with the identified markets of London and the South East.

Some 10 years on, not one SRFI has been developed in London and the South East even though in 2007 planning approval was granted for the Howbury Park SRFI near Bexley. The lack of any progress at Howbury has been regularly cited as a reason to question the need as envisaged by the SRA. The emergence of London Gateway which now provides London with it's own deep sea port only serves to add further weight to this argument and presents a strong case for a review of what is required for London and South East. Whilst these questions remain it would surely be foolhardy to permit a SRFI at Radlett and the immense harm to the Green Belt that this would entail.

Conclusions

For the reasons we have given above, we consider that the Secretary of State cannot lawfully determine this appeal without inviting further representations on material changes in circumstances since the 'minded to approve' letter that was issued some 14 months ago. We have set out three important material changes in circumstances above and anticipate that other parties may wish to make representations on these and others.

Yours Sincerely


Howard Wayne
Wayne Leighton LLP