

9/HS 7.1

Helioslough Ltd.

APP/B1930/A/09/2109433/NWF

Tim Goodwin

Ecology
Written Statement

Radlett

Strategic Rail Freight Interchange



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1. INTRODUCTION

- 1.1. This written statement has been prepared by Ecology Solutions on behalf of Helioslough Limited in respect of the planning appeal for the proposed development of land in and around Former Aerodrome, North Orbital Road, Upper Colne Valley, Hertfordshire.

Qualifications

- 1.2. My name is Tim Goodwin. I hold a BSc (Hons) degree in Environmental Biology from Leicester University, an MSc in Environmental Resources from the University of Salford and I am a member of the Institute of Ecology and Environmental Management and the Institution of Environmental Sciences, on whose council I was elected between 1993 and 2000.
- 1.3. From 1990 to 1991, I was a Director of RPS Clouston, a large environmental consultancy. I previously worked as Development Officer for the Northants Wildlife Trust, followed by a position with the World Conservation Monitoring Centre in Cambridge, a division of the International Union for the Conservation of Nature, Gland, Switzerland. I have carried out consultancy work for the World Wide Fund for Nature (WWF), Greenpeace, the Department of Environment, Food & Rural Affairs and HM Revenue & Customs and I am retained as an independent consultant by the latter two Governmental Departments to advise on sections of the Wildlife and Countryside Act 1981, the Endangered Species (Import and Export) Act 1976 and Zoo Licensing Act 1981.
- 1.4. In 1992, I formed Epcad, of which I was one of the principal partners, heading the Ecology section. At the end of 2004, Epcad demerged into two companies with the ecology arm becoming known as Ecology Solutions of which I am one of the main Directors. In addition to inquiry work, Ecology Solutions undertakes all types of ecology related environmental planning work. Recent clients include Aggregate Industries, Cemex, the Hanson Group, Fulham Football Club, Pfizer plc, British Aerospace, Legal and General, Stanhope, and a range of national House Builders; including Countryside Properties, Persimmon Homes, Taylor Wimpey, Bellway Barratts, Robert Hitchins, Fairview, and Crest Nicholson.

- 1.5. I have extensive experience of considering and evaluating development proposals in relation to a range of sensitive ecological sites including Ramsar Sites, Special Areas of Conservation (SACs) Special Protection Areas (SPAs) Sites of Special Scientific Interest (SSSIs) and County Wildlife Sites¹. I have prepared numerous mitigation strategies for a range of protected species including Great Crested Newts, Badgers, Dormice, Bats and Water Voles.
- 1.6. I have been intimately involved in a number of high profile projects relating to the ecology and conservation of various species and habitats, including Leisure Developments, New Settlements, Mineral Workings, Water / Flood Alleviation Schemes, Highway Proposals and Land Restoration Schemes. I have given evidence at numerous section 78 appeals, Call-in inquiries, Local Plan Inquiries and I have prepared and given evidence for select committee and in the High Court in Judicial Review proceedings. I have also been involved in the preparation of mitigation strategies for a number of Strategic Rail Freight Interchange developments.
- 1.7. The evidence which I have prepared and provide for this appeal in this proof is true and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed herein are my true and professional opinions.

Background

- 1.8. The appeal has been lodged on the grounds of outline planning permission having been refused (LPA Ref: 5/09/0708) for the construction of a Strategic Rail Freight Interchange (SRFI) comprising an intermodal terminal and rail / road served distribution units (331,665 m² Class B8 including ancillary B1/ B2 floorspace) within Area 1, with associated road, rail and other infrastructure facilities and works in Areas 1 and 2, (to include earth mounds and a relief road at Park Street / Frogmore) with landscape planting. Further landscape planting

¹ For consistency with other documentation before the Inquiry, the term "County Wildlife Site" is used, though it would appear that terms for locally designated sites within Hertfordshire are interchangeable, with the additional terms "Wildlife Site", Local Wildlife Site and "local Wildlife Site" also used.

and other works are proposed within Areas 3 to 8 inclusive to provide publicly accessible open land and community forest.

- 1.9. As part of the new 2009 application an updated Environmental Statement was submitted. This included an updated Ecology Chapter (Chapter 5 dated March 2009), contained within Core Document 9/CD/2.3. This chapter, produced by Ecological Planning and Research Limited expanded upon earlier ecological survey and assessment work undertaken and submitted in respect of the 2006 application.
- 1.10. It is noted that there have been no material changes in circumstances, since the previous inquiry.
- 1.11. Ecology Solutions were commissioned after the application was submitted by the Appellant specifically to review and assess ecological issues associated with the site, including all background survey work and analysis together with correspondence received from third parties, with a view to advising on the overall suitability (in terms of scale and detail) of the ecological mitigation and enhancement measures proposed as part of the appeal scheme. In order to ensure that the most appropriate advice could be given a walkover survey was undertaken in late June 2009 by myself together and another experienced ornithologist.
- 1.12. Further to the background study and site walkover, a specific assessment was made in relation to the breeding wetland / wading bird assemblage within the appeal site. As part of this exercise surveys were undertaken, though it was not the intention to conduct breeding bird surveys *per se*, but rather the quality of the habitats present were assessed during site visits and evidence of breeding wetland / wading birds was searched for, in order for Ecology Solutions to make its own informed judgement on the relative value (to wetland / wading birds) based upon the most up-to-date situation.
- 1.13. As part of the consultation process associated with the application a response was received from the Hertfordshire Biological Records Centre (HBRC). A copy of this is included at Appendix 1 of this statement. The HBRC consultation

response also contains a summary of Natural England's response. Broadly, the key points / topics raised by HBRC in their response relate to the following:

- Matters in relation to the alternative sites assessment;
- The proposed designation of part of the appeal site as a Wildlife Site in respect of its wetland bird communities;
- The proposed designation of part of the appeal site as a Wildlife Site in respect of its botanical interest of the acid grassland;
- Whether the proposed mitigation / compensation measures are appropriate in respect of birds;
- Whether the proposed mitigation / compensation measures are appropriate in respect of acid grassland;
- It is noted that Natural England raised no objection to matters in relation to protected species as long as appropriate mitigation is deliverable where necessary.

1.14. Given that there have been no material changes in circumstance since the last Public Inquiry; that extensive evidence on grounds of ecology were heard at this inquiry and that such matters were not considered to be material in recommending the refusal to grant permission, this report does not seek to cover items on which the Secretary of State has already passed judgement. For completeness, a summary of the issues raised and the conclusions of the Inspector and the Secretary of State are presented below within Section 2.

1.15. It is noted that conditions relating to ecological matters in respect of the appeal proposals have been agreed by St Albans District Council.

1.16. I understand that the only claimed material change in circumstance (on grounds of ecology) since the last inquiry relate to the proposed designation of Area 1 as a County Wildlife Site on account of the value of the acid grassland and its wetland bird interest. It should be noted that such a designation is a material consideration but it does not engage any of the statutory schemes relating to SSSI's or European sites. It is this issue that is considered in this Statement. One further issue addressed within this Statement is the fact that one species of butterfly recorded within the appeal site, Small Heath *Coenonympha*

pamphilus, is now afforded a higher conservation status, being classed as priority species within the UK Biodiversity Action Plan (BAP).

- 1.17. It is not the intention of this Statement to present additional baseline ecological information, as it is considered that the relevant ES chapter (Chapter 5) covers this in sufficient detail, but rather to provide specific comment in relation to those points detailed above at paragraph 1.9, with reference to the Inspectors recommendations following the previous inquiry, Chapter 5 of the current ES, the HBRC consultation response, the Selection Criteria for Local Wildlife Site in Hertfordshire (2009) (see Appendix 2) and Ecology Solutions own analysis of the relevant baseline information.

2. SUMMARY OF THE INSPECTORS RECOMMENDATIONS / SECRETARY OF STATES CONCLUSIONS (ECOLOGY) IN RESPECT OF THE PREVIOUS INQUIRY

Inspector's Recommendations

2.1. Extensive evidence was heard at the previous Inquiry in relation to ecological matters. The key issues were as follows:

- Impacts on the acid grassland habitat;
- Impacts on birds and loss of habitat within Area 1; and
- The likelihood of enhancement works for Areas 3 and 8 coming to fruition.

2.2. In relation to potential impacts on the acid grassland, the relative value of this habitat was not disputed by the Appellant. The proposed mitigation centred around a translocation exercise, whereby the grassland would be translocated from Area 1 to Area 2. A planning condition had been agreed in this respect. The Council's concern was whether this translocation would be successful. Agreement was reached however, during cross-examination that through careful planning and with good resources the grassland could be translocated. The Inspector pointed out that

“the techniques to be used to achieve the translocate are well established and not experimental” [Inspector's Report (IR) 6.57 & 16.28] (9/CD/8.2)

2.3. With respect to the issue of impacts on the acid grassland, the Inspector concluded:

“any impact on the acid grassland should not tell against the proposal” [IR 16.28].-

2.4. In relation to potential impacts on birds, the fact that the site was, at that moment in time, considered to be of district importance for its bird interest was not disputed. The disputed issues centred around whether and to what extent the bird interest would decline in the advent of the proposed development and the likely effectiveness of the proposed mitigation.

Secretary of States Conclusions

2.5. In relation to ecological matters the Secretary of State concluded as follows:

“The Secretary of State has had regard to the fact that Natural England raised no objection in respect of those legally protected species found on site, subject to appropriate measures being undertaken to protect them from harm (IR 16.26). For the reasons given by the Inspector in IR16.25 – IR16.40, she agrees with his conclusion at IR16.179 that harm resultant from the proposed development to the underlying ecological interest would not be significant.” [29 of the Secretary of State Final Decision Letter] (9/CD/8.1).

3. CONSIDERATION OF MATERIAL CHANGES IN CIRCUMSTANCES TO THOSE PRESENTED AT THE PREVIOUS INQUIRY

Proposed designation as a Wildlife Site in respect of wetland bird communities in Area 1

- 3.1. It is understood that in the intervening period between the last Public Inquiry and some point during early 2009 HBRC determined that the site is now worthy of County Wildlife Site status because it is thought to meet the revised Hertfordshire bird criteria. As a result it is now intended to propose this site for Wildlife Site status on the basis of its wetland bird communities.
- 3.2. It is understood that this decision to propose the site for County Wildlife Site status has been taken on the basis of the results of the surveys conducted during the period 2004 - 2007 by Ecological Planning and Research Limited which were on the basis that the last inquiry proceeded.
- 3.3. It is understood that HBRC consider that Area 1 comprises a wetland bird assemblage of sufficient quality to merit designation under the "Selection Criteria for Local Wildlife Site in Hertfordshire (2009)". Specific breeding bird surveys were conducted during 2004, 2005 and 2007 and it is assumed that it is these survey results that have been used to inform the decision to propose the site for designation as a Wildlife Site (bird interest).
- 3.4. It is understood that the HBRC consider that the site would meet the third criterion for designation, namely sites which support outstanding breeding assemblages as defined by the criteria listed in Appendix 10 (Appendix 8 sic), on account of the breeding population of wetland birds (the site certainly could not qualify under any other criteria listed).
- 3.5. Under Criterion 3, qualifying species for a range of differing habitats are listed and a score attributed to each. Under "Lowland Open Water and Margins" either a score of 25 is needed or the presence of 6 or more County Red List species. Breeding bird survey data provided for 2004 and 2005 shows that in 2004 a score of 21.5 would be achieved with 4 County Red List species while in 2005 a score of 25.5 would be achieved, again with 4 County Red List.

Further surveys conducted in 2007 revealed a broadly similar wetland bird species composition to that recorded in 2005, but with a reduction in numbers. As such the site would just about qualify (borderline) based upon 2005 / 2007 data.

Current Status

- 3.6. As stated above, Ecology Solutions carried out updated surveys in relation to the use of the appeal site by wetland birds in 2009, as set out in para 1.12.
- 3.7. During the surveys no evidence of any breeding waders was recorded. The only wader recorded within the appeal site was a Green Sandpiper *Tringa ochropus*, recorded during the dawn survey. The Green Sandpiper is a very rare breeder in the UK and it is more likely that this bird was an early migrant, which start to arrive from July onwards.
- 3.8. With regard to water birds, Tufted Duck *Aythya fuligula*, Mallard *Anas platyrhynchos*, Moorhen *Gallinula chloropus* and Coot *Fulica atra* broods were observed within the larger area of standing water.
- 3.9. The results of the surveys undertaken by Ecology Solutions, an analysis of the relevant designation criteria and the opinion of Ecology Solutions as to whether the site would in fact qualify under the Wildlife Site criteria are discussed below.
- 3.10. The grassland within the appeal site is considered to be more established now (2009) than during the previous surveys (2004 – 2007) when breeding waders were recorded. Furthermore, hedgerows have been planted as part of the landscape restoration scheme. It would appear that these combined factors have made the site less attractive to species such as Ringed Plover *Charadrius hiaticula* and Little Ringed Plover *Charadrius dubius* which nest in open areas comprising bare earth and pebbles with little or no vegetation.
- 3.11. The grassland areas were heavily stocked with sheep at the time of the surveys and looked as if they had been for some considerable time. Such dense stocking regimes are not ideal in areas of breeding waders as they disturb the birds, damage the nests and reduce the sward height to levels that

are undesirable for most wader species. Breeding waders benefit from cattle or mixed grazing which gives a range of sward heights with tussocks for nesting in and short-grazed areas for feeding. It is considered likely that due to this high level of stocking the Lapwing *Vanellus vanellus* and Redshank *Tringa totanus* have also been unable to breed.

- 3.12. It is therefore considered that the relative value of the site in respect of wetland / wading birds has diminished considerably over the past few years. This diminished value for wetland birds is indeed recognised by HBRC within the consultation response (dated 3rd July 2009), where it is stated:

“This interest was still present in 2007. However reduced numbers were noted for some species due to a reduction in openness following hedgerow planting as part of the landscape restoration of the site.”

“There may be some issue regarding future bird numbers (longer term data would be required to show genuine declines) although we acknowledge the hedges are not a positive attribute in this respect”

- 3.13. It is therefore accepted by both parties that the current management regime is unsympathetic to maintaining the wetland bird interest. Furthermore the results of Ecology Solutions surveys undertaken during 2009 demonstrate further decline in breeding wetland / wading bird numbers and it is expected that without appropriate management this would be exacerbated.
- 3.14. On current evidence, it is clear that the sites wetland / wading bird interest has declined steadily over recent years, with a further reduction since the specific breeding bird surveys undertaken in 2007. No improvement in this situation is likely without human interference.
- 3.15. It is Ecology Solutions opinion that the above designation criteria in respect of the sites wetland bird interest would not now be met even though it would have marginally been met in 2007. The bird interest at the Appeal Site was taken into account at the last inquiry.

- 3.16. In any event as can be seen from the ES (Chapter 5), provision is made for specific compensatory habitat creation for birds, including wetland species within the appeal proposals. Sympathetic management of habitats for birds is to include the following measures: appropriate grazing / cutting regimes, scrub clearance, harrowing and control of public access. Wetland and open-water habitat is to be enhanced or indeed created within the extensive mitigation areas (e.g. the Country Park) which will benefit wading species and water-birds, while appropriate management of grassland habitats will also enhance the site for waders and other birds dependant upon such habitats. Specific management is also proposed in relation to Little Ringed Plover, which will focus upon providing a matrix of wetland and ephemeral habitats within Area 2, where they have previously been recorded.
- 3.17. All of the long-term management objectives are to be secured as part of an ecological management plan, giving security to the value of the site to birds, including wetland / wading birds, something which at present is fundamentally lacking on site, as can be seen from the reduction in use by such species. The Secretary of State accepted the package as appropriate at the last inquiry, para 46 (9/CD/8.1).
- 3.18. The appeal proposals will enhance the site for bird species in general through the creation of habitats of greater quality than those currently present by means of sympathetic and targeted design and management.
- 3.19. It is of note that the appeal site represents one of several locations within the Colne Valley area where those habitats in Area 1 are present. This is a point raised by the Inspector, at paragraph 6.58 and 16.37 of his report, in respect of the previous inquiry. This being the case and with the appeal site currently becoming less suitable for wetland / wading birds, then it is wholly conceivable, indeed likely that the birds which previously utilised the appeal site now breed and forage elsewhere. In the same way, if suitable compensation and enhancements, such as those proposed in this instance can be undertaken (in line with the agreed conditions), then there is no evidence to suggest that the bird interest within the completed development cannot be restored to a status more favourable than that currently present.

Proposed designation as a Wildlife Site in respect of acid grassland in Area 1

3.20. As stated within the ES, the acid grassland located within Area 1, which would be lost to the appeal proposals is considered to be of value at the county level on account of its botanical interest. The HSBC consider that this acid grassland is of sufficient quality to merit designation under the "Selection Criteria for Local Wildlife Site in Hertfordshire (2009)".

3.21. The Criteria for designation in respect of acid grassland is listed as follows:

"Any grassland site, > 0.25 ha in size, with a predominance of species characteristic of old acidic grassland. With 5 or more species listed in Appendix 4 recorded in the previous 15 years, if the site shows no recent signs of significant damage through chemical applications, serious disturbance or neglect, such as to have obviously altered its characteristic communities.

Note i) Examples should be at least 0.25 ha, except where particularly rare or threatened communities and species are involved

Grassland which can be classed as having a predominance of species characteristic of acid grassland within the site exceeds 0.25 ha in size."

3.22. Mitigation proposed in respect of the acid grassland centres around a translocation of this grassland from Area 1 to Area 2, with an overall increase in the amount of acid grassland as a result of the appeal proposals. This proposal was considered favourably by the Inspector at the previous inquiry and by the Secretary of State in passing judgement on that appeal. It is also broadly accepted as a satisfactory mechanism of protection by HBRC. It is stated within HBRCs Report to the Planning Referrals Committee, in relation to the production of a detailed translocation methodology aiming to conserve the value of the grassland, that:

"If this can be demonstrated satisfactorily, we advise that in the circumstances, the loss of the existing grassland would not be a sound reason to refuse the application on ecological grounds."

- 3.23. Ecology Solutions surveys of 2009 show that the acid grassland and its associated species composition is no better than that previously recorded and there is therefore no material change in this situation since the last inquiry. At that last inquiry both the Inspector and the Secretary of State agreed that a translocation of this grassland was an acceptable means of mitigating any significant adverse effects on this habitat.
- 3.24. Given that the translocation would be subject to a method statement, drawn up in consultation with Natural England and agreed in writing by the Council there is no reason to think that translocation of the acid grassland could not be successful. Ecology Solutions concur with this conclusion. Indeed, through the proposed management (conditioned as part of a Management Plan, as agreed with SADC) and overall increase in the quality and size of this habitat, the appeal proposals will result in an enhancement over the current situation.
- 3.25. It is noted that at paragraph 6.57 of the Inspector's Report in relation to the previous inquiry reference is made to the quality of the grassland and the fact that both the Appellant and HBRC agree that the grassland would merit "local designation". As such the Inspector has already considered that proposals in the light of the grassland being of local designation quality and came to his conclusions with such a Wildlife Site designation in mind. Paras 16.27 and 16.28 of the Inspectors Report state that it was agreed that the area met the Criteria for designation as on County resource, but none the less concluded that any impact on acid grassland should not tell against the proposal.

Impacts on the Small Heath Butterfly

- 3.26. Details of the surveys undertaken in respect of invertebrates, the findings and subsequent analysis of the effects of the appeal proposals are discussed in detail within Chapter 5 of the ES. Mitigation and enhancement measures are put forward within the ES which provide an enhancement over the current situation for those species recorded.
- 3.27. The Small Heath occupies a range of habitat types but is generally associated with grassland habitats. As a result of the Appeal Proposals these will be a

significant increase in the availability of good quality grassland habitat to this species.

4. SUMMARY AND CONCLUSIONS

- 4.1. There have been no material changes of any substance, since the previous inquiry.
- 4.2. The only changes on grounds of ecology from the last Inquiry are 1. the proposed designation of Area 1 as a County Wildlife Site on account of the value of the acid grassland and its wetland bird interest and 2. the elevated status of the Small Heath butterfly, which has been recorded within the appeal site.
- 4.3. In respect of 1, the proposed designation of part of the appeal site as a County Wildlife Site, it should be noted that such a designation is a local planning policy matter and confers no statutory weight. All the data on which the Council appears to rely for designation was considered by the last Inspector and both parties proceeded on that basis so these matters have already been considered.
- 4.4. Further in regard to the proposed designation on account of the wetland / wading bird interest within the appeal site, there has been a material decline in the attractiveness of the site for birds and there has been no material improvement in the quality of the grassland. The proposed regime as set out in the Countryside Management Plan will enhance the ecological interest rather than diminish it.
- 4.5. In relation to the Small Heath butterfly - a) revision of the Small Heaths conservation status confers no new weight to the scale of impacts on the species, and b) the proposed mitigation will more than mitigate for any short-term disturbance issues and habitat loss.
- 4.6. I see no reason why the Inspector would defer from those conclusions previously made, namely that any adverse effect on the underlying ecological interest would not be significant. I do not consider that the changes of circumstances identified by the Council are material.