



PINS REF:

**APP/B1930/A/09/2109
433/NWF**

APPELLANT'S

STATEMENT OF CASE

In respect of

**SITE AT LAND IN AND
AROUND FORMER
AERODROME, NORTH
ORBITAL ROAD, UPPER
COLNE VALLEY, HERTS**

On behalf of

HELIOSLOUGH LIMITED

CgMs Ref: EM/4093

Date: September 2009



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1.0 INTRODUCTION

1.1 This Statement of Case has been prepared by CgMs on behalf of Helioslough Limited in respect of the planning appeal relating to the proposed development of land in and around Former Aerodrome, North Orbital Road, Upper Colne Valley, Hertfordshire.

2.0 THE APPEAL SCHEME

2.1 The appeal is on the grounds of outline planning permission having been refused (LPA planning application Ref: 5/09/0708) for '*construction of a Strategic Rail Freight Interchange (SRFI) comprising an intermodal terminal and rail and road served distribution units (331,665 m² in Use Class B8 including ancillary B1/ B2 floorspace) within Area 1, with associated road, rail and other infrastructure facilities and works within Areas 1 and 2, (including earth mounds and a Park Street/Frogmore relief road) in a landscaped setting, and further landscaping and other works within Areas 3 to 8 inclusive to provide publicly accessible open land and community forest*'.

2.2 The application sought approval for means of access, siting and landscaping, to the extent that access, siting and landscaping are defined in the submitted Development Specification Document, with all other matters reserved.

2.3 The planning application was formally submitted on the 8th of April 2009 and comprised of:

- Application form and certificate of ownership dated 8 April 2009
- Agricultural Holding Certificate dated 8 April 2009
- Drawing no. 394503-DSD-001 Location Plan
- Development Specification Document

2.4 The application was accompanied by supporting information comprising of:

- Environmental Statement prepared and submitted in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as amended by the Town and Country Planning (EIA) (Amendment) (England) Regulations 2008.

- Design & Access Statement
- Transport Assessment
- Planning Policy Report
- Needs Study, including an Alternative Sites Assessment
- Consultation Statement

General Background to the Current Application

2.5 The 2006 planning application by Helioslough for an SRFI on land in and around the former Aerodrome, North Orbital Road, Hertfordshire was refused by St Albans District Council. Helioslough appealed against the refusal. A Public Inquiry was held in autumn 2007 and the Secretary of State issued her decision in October 2008. The appeal was dismissed but on the narrow issue of the robustness of the Alternative Sites Assessment. Save in relation to queries on two technical issues, all other matters were found to be acceptable by the Secretary of State.

2.6 In the Secretary of State's Decision Letter, at para. 58 she stated:-

"The Secretary of State considers that the need for SRFI's to serve London and the South East is a material consideration of very considerable weight and had the appellant demonstrated that there were no other alternative sites for the proposal, this would almost certainly have led her to conclude that this consideration, together with the other benefits... were capable of outweighing the harm to the Green Belt and the other harm which she has identified in this case."

2.7 The new application and the supporting material which accompanies it, including the Environmental Statement, relate to the same development scheme as considered by the Inspector in his Report and by the Secretary of State in her Decision Letter of 1 October 2008. The application therefore reflects any changes to the previous scheme which were made between the 2006 submission and the close of the Inquiry.

2.8 The Alternative Sites Assessment is a new document and has been prepared specifically to address the Inspector's and Secretary of State's concerns on the previous assessment.

2.9 The Environmental Statement is based upon the Environmental Impact Assessment which was carried out for the previous application and upon the Environmental Statement which accompanied that application. However in preparing the new Environmental Statement regard has been had to:

- a) any material changes in circumstances since the previous Environmental Statement which are relevant to the EIA process, including the Secretary of State's Decision Letter and the Inspector's Report.
- b) the scheme changes between the 2006 submission and the close of the Inquiry.

2.10 The other documents submitted in support of the application have also had regard to material changes in circumstances which are relevant to those documents since the last submission and to (b) above.

2.11 Planning Officers recommended that the application be refused planning permission and St Albans District Council resolved to do so at the Planning Referrals Committee on the 20 July 2009 for the following fourteen reasons:

1. The site is within the Metropolitan Green Belt as defined in the St Albans District Local Plan Review 1994 wherein permission will only be given for the erection of new buildings or the use of existing buildings or land for agriculture, other essential purposes appropriate to a rural area or small scale facilities for participatory sport or recreation. The proposed development is unacceptable in terms of Policy 1 of the St Albans District Local Plan Review 1994 and is inappropriate development in terms of PPG2 Green Belts. The harm to the Green Belt by reason of inappropriateness and any other harm is not clearly outweighed by other considerations and accordingly no very special circumstances exist to justify the proposal.

2. The overall size, height, bulk, massing and scale of the proposed development would be highly damaging to, and seriously diminish, the open character and visual amenity of this significant part of the Green Belt which provides amongst other things an important gap between Park Street and London Colney, contrary to Policy 1 of the St Albans District Local Plan Review 1994.

3. The proposal conflicts with the provision of PPS1 in that it fails to demonstrate that the development can be carried out consistently with the principles of sustainable development.

4. Policy T10 of the East of England Plan states that provision should be made for at least one Strategic Freight Interchange unless more suitable locations are identified within London or the South East for all 3 to 4 interchanges required to serve the Greater South East. The 'Consideration of Alternative Sites' study is inadequate and, as a result, the need for the proposed SRFI as set out in Policy T10 of the East of England Plan has not been shown.

5. The proposed development is premature in advance of the National Policy Statement covering SRFIs due to be published in 2010, the completion of a trans-regional assessment of the location of SRFIs in the Greater South East and until demand has been shown to exist through the implementation and occupation of the available SRFI capacity at Howbury Park. The proposal is therefore contrary to the advice in PPS1.

6. The applicant has failed to demonstrate that there are adequate paths in the wider national rail network to support the number of freight trains that the facility is intended to serve, and that the Midland Mainline timetable can accommodate the level of services anticipated. The viability of the rail connection has not been demonstrated and there is no evidence that gauge improvements to W9 and W10 standard can be delivered between Radlett and points on the rail network with gauge to these standards. No demand has been shown for rail freight or an SRFI in the north west sector of London. The proposal is therefore contrary to the requirement that priority should be given to the objectives of the Regional Transport Strategy regarding the sustainable movement of freight set out in Policies T1 and T10 of the East of England Plan and the advice in PPS1 regarding sustainable development.

7. The proposal for the central development site (Area 1) fails to adequately secure and enhance the quality and appearance of the landscape in this area. The proposal is therefore contrary to Policy 143 of the St Albans District Local Plan Review 1994 and PPG Green Belts.

8. The proposals would lead to high noise levels that will be experienced by residents on the eastern side of Park Street/Frogmore and more particularly Radlett and Elstree. The resultant adverse impact and harm caused would be contrary to PPG24 (Planning and Noise).

9. *The proposals would lead to harmful air quality conditions experienced by residents in Park Street/Frogmore and more particularly within Radlett and Elstree. These would be contrary to PPG23 (Planning and Pollution Control).*

10. *The proposal for the Country Park, landscape and ecological improvements intended to mitigate the losses associated with the development are unacceptable in scale, outcome and detail while the process and funding of a long term management regime is not determined. The proposal conflicts with Policy 106 of the St Albans District Local Plan Review 1994.*

11. *The applicant has failed as part of the proposed development to take mitigating measures to offset the harm of the development to ecology and the local footpath network. The proposal would conflict with Policies 97, 106 and 110 of the St Albans District Local Plan Review 1994.*

12. *Insufficient information has been submitted by the applicant to enable the Highways Agency to determine if there have been any material changes in circumstances in relation to the impact of the proposed development on the strategic highway network.*

13. *No adequate Section 106 obligation has been offered by the Applicant.*

14. *Insufficient information has been submitted by the applicant to enable the Local Highway Authority to determine if there have been any material changes in circumstances in relation to the impact of the proposed development on the local highway network including the A414, A405 and A5183 and the linkages to the national motorway network.*

2.12 The applicants appealed the decision on the 24th of July 2009, and the appeal was given a start date of the 29th of July 2009.

3.0 **SITE DESCRIPTION**

3.1 The Application Site has a total size of 419 hectares and comprises of 8 parcels of land (Areas 1-8). An Application Site location plan is provided in the Development Specification Document. The SRFI development is proposed on only 2 parcels, namely Areas 1 & 2. This is called the Development Site. The table below sets out the areas and their size:

Area	Site Area (hectares)
1	146
2	26
<i>Development Site</i>	Sub total: 172
3	29
4	52
5	91
6	16
7	27
8	32
Country Park	Sub total: 247
Total	419

Table 1: Application Site areas (ha)

3.2 The Development Site for the SRFI (Areas 1 and 2) is located south of the A414 North Orbital Road. Area 1, a relatively level 146-hectare land parcel will accommodate the intermodal terminal and rail-served warehouses. It comprises a short section of the A414 (1 hectare), where it is proposed to build a new roundabout, and land previously used for the runways of the Former (Radlett) Aerodrome (145 hectares), the home of the former Handley Page aircraft factory. It extends from the Midland Main Line Railway at its eastern boundary to the edge of the settlement of Frogmore in the west.

3.3 Use of Area 1 for plane production and as an airfield ended in 1970 following which it was quarried for gravel from 1992 to 1997. Most of the former hangers lay to the south of the Application Site, an area that has been redeveloped to form an industrial warehouse estate. The predominant use of the former runway

area is now agriculture/grazing following implementation of a programme of restoration works.

- 3.4 The Development Site has the potential for appropriate access to the Midland Main Line, which has two dedicated freight/slow lines as well as the high speed lines and enjoys excellent road access, as the North Orbital Road (A414) provides a high quality link to the M1, M25 and the A1 (M). It is for these reasons that it enjoys some overwhelming locational advantages for a Strategic Rail Freight Interchange. A description of a SRFI is set out in Annex D to the DFT report of September 2009, "Strategic Rail Freight Network: The Longer Term Vision".
- 3.5 Area 2, a 26-hectare land parcel comprising a section of the Midland Mainline Railway (4 hectares) and land to the east (22 hectares) will accommodate a new rail link into the SRFI. This land has been used for mineral extraction and has been restored to agricultural land. Save for the rail line and earth mounds, there will be no development in this area.
- 3.6 Areas 3 to 8 will be used to create 247 hectares for the "Country Park" which will mainly continue in agricultural use supporting biodiversity and with improved public access to the countryside, new woodland and some recreational use.
- 3.7 Areas 3 and 4 (81 hectares in total) comprise two land parcels of similar landscape character. Area 3 is located south of the A414 North Orbital Road, extending south towards the boundary of the SRFI. Area 4 is north of the A414 and adjoins St Stephens, St Julians and the Verulam Golf Course. The river Ver flows through Areas 3-4 under the A414. This area is predominantly open grazed grassland with river valley and some wooded edges, and has never been subject to mineral working.
- 3.8 Areas 5-8 (166 hectares) comprise additional areas of land to the west, south and east of the SRFI, each of which is a restored mineral-working site, now used mainly for grazing. The Ver-Colne National Trail passes through Area 5.
- 3.9 The settlement of Frogmore is situated to the south-west of the Development Site, extending northwards into the settlement of Park Street. The Frogmore

Business Park, Industrial Estate & Works, and Curio Park are also situated to the west of the Development Site. Park Street Railway Station is located close to the western-most tip of the Development Site. The eastern tip of Conservation Area no.17 (Park Street and Frogmore) is immediately adjacent to the Development Site.

3.10 The settlements of Napsbury (also a Conservation Area) and London Colney are located towards the east of the Development Site beyond open fields on the other side of the Midland Main Line Railway Line. Residential properties associated with these areas extend to the west and meet at the junction of the railway line and A414 North Orbital Road.

3.11 In addition to being covered by the Watling Chase Community Forest land designation, the Application Site is designated under the saved policies of the adopted Local Plan as set out in the following table:

Area	Local Plan Designation
1	Metropolitan Green Belt; Upper Colne Valley; Article 4 Area
2	Metropolitan Green Belt; Area of Archaeological significance: sites where planning permissions may be subject to a archaeology recording condition (43)
3	Metropolitan Green Belt; Conservation Area (Park Street & Frogmore)
4	Metropolitan Green Belt; Conservation Area (Sopwell); St Albans City Centre Zone of Visibility's
5	Metropolitan Green Belt; Upper Colne Valley; Site of Special Scientific Interest
6	Metropolitan Green Belt; Area of Archaeological significance: sites where planning permissions may be subject to a archaeology recording condition (37)
7	Metropolitan Green Belt; Upper Colne Valley; Area of Archaeological significance: sites where planning permissions may be subject to a archaeology recording condition (37)
8	Metropolitan Green Belt

4.0 PLANNING POLICY BACKGROUND

- 4.1 Planning policy at national, strategic and local level will be addressed in the evidence presented by the Appellant.
- 4.2 The Appellant will primarily refer to the policies listed in the Statement of Common Ground. In particular reference will be made to PPS1 in relation to delivering sustainable development and ensuring that environmental, economic and social objectives are achieved together over time; PPG2 on approving development in the Green Belt under very special circumstances; PPG4 on integrating environmental and economic objectives; Draft PPS4; PPS7 on supporting a range of economic activity in rural areas and the effective protection and enhancement of the environment; PPS9 on minimising impact on biodiversity and enhancing it where possible; PPS11 on spatial issues relating to the identification of sites for SRFI; PPG13 on transport; PPG15 on planning and the historic environment; PPG16 on archaeology; PPS23 on pollution control; PPG24 on noise; and PPS25 on flood risk.
- 4.3 At a strategic level reference will be made to the South East Plan (May 2009); the East of England Plan (May 2008); the Mayor's London Plan (consolidated with changes February 2008); the Hertfordshire County Structure Plan 1991 to 2011 (adopted April 1998); the Hertfordshire Minerals Local Plan Review 2002 to 2016 (adopted March 2007); the Watling Chase Community Forest Plan (adopted January 1995); the Watling Chase Community Forest Plan Review (adopted 2001); and the DfT Regional Planning Assessment for the East of England, February 2006.
- 4.4 The Development Plan comprises:-
- The East of England Plan (May 2008).
 - The Hertfordshire Structure Plan 1991 – 2011 (adopted April 1998)
 - The St Albans City & District Local Plan Review (adopted 1994)
 - Hertfordshire Minerals Local Plan Review (adopted March 2007)
 - Hertfordshire Waste Local Plan 1995-2005 (adopted 1999)

- 4.5 At a local level reference will be made to the St Albans City & District Council Local Plan Review (adopted November 1994); the St Albans City & District Council Revised Parking Policy & Standards (adopted January 2002) and to any relevant Supplementary Planning Guidance.
- 4.6 The emerging LDF is also relevant, but it is at a very early stage, and reference will be made to the recently published 'Emerging Core Strategy' consultation document, where public consultation is running until 28th September 2009.
- 4.7 Reference will be made to any further draft and subsequently adopted Planning Policy Guidance and other relevant papers and reports at a national, regional and local level.

5.0 ISSUES TO BE ADDRESSED BY THE APPELLANT

- 5.1 St Albans District Council refused the same 2006 application on 14 grounds. All of these 14 reasons for refusal were comprehensively considered at the 2007 Public Inquiry and none were withdrawn. Full evidence was called in relation to those reasons for refusal. The Secretary of State dismissed the Council's concerns in all but one respect, and that was in regard to the Alternative Sites Assessment.
- 5.2 In para 58 of the Secretary of State's Decision Letter she states:- "*The Secretary of State considers that the need for SRFI's to serve London and the South East is a material consideration of very considerable weight and, had the appellant demonstrated that there were no other alternative sites for the proposal this would almost certainly have led her to conclude that this consideration, together with the other benefits she referred to above were capable of outweighing the harm to the Green Belt and the other harm which she has identified in this case*".
- 5.3 The Appellant wrote to the Council on 23 July 2009 to ask the Council to specify precisely what the material changes in circumstances are which the Council are relying on in support of the reasons for refusal on matters which the Secretary of State has already considered and in particular for reasons for refusal 3, 8, 9 and 11. Despite a chasing letter on 15 September, no reply has yet been received.

5.4 Where the Secretary of State has already considered an issue and there have been no material changes of circumstances since, the position of the Appellant will be that there is no basis for the Inquiry to reconsider those matters. St Albans District Council is seeking to reargue matters on which the Secretary of State has already reached a view. That approach is inappropriate in principle, will artificially and unreasonably prolong the Inquiry and will result in significant additional work and cost. The Appellant will invite the Inspector to rule at the pre-Inquiry meeting that he will not hear oral evidence on matters where a conclusion has already been reached and where there is no material change of circumstances since, on the basis that such evidence is either irrelevant, or repetitious.

Reason for Refusal 1

5.5 It is accepted that the application is inappropriate development in the Green Belt. The Secretary of State in her Decision Letter 1.10.08, states in paras 58 and 59 that the need for SRFI's to serve London and the South East is a material consideration of very considerable weight and she would have almost certainly concluded that this together with the other benefits would have outweighed the harm to the Green Belt, had the Appellant demonstrated that there were no alternative sites. The Secretary of State also identified limited conflicts with the Development Plan in relation to landscape visual impact and highways, but she considered that these would be insufficient on their own to justify refusing permission. The new application includes a new Alternative Sites Assessment which demonstrates that there are no alternative sites. The only issue to be addressed in regard to reason for refusal 1 is therefore the new Alternative Sites Assessment.

5.6 It will be demonstrated that there are no alternative sites which are more preferable for the development of an SRFI, thus justifying development in the Green Belt.

Reason for Refusal 2

5.7 At the 2007 Inquiry the Council called expert evidence from a highly qualified consultant. The issue was considered in depth with detailed examination and cross examination on all relevant issues. The visual impact of the proposal on the openness of the Green Belt has accordingly already been considered by the

Secretary of State, as referred to above. The Secretary of State also concluded that the proposal will not lead to the merging of Park Street and London Colney as stated by the Secretary of State in her Decision Letter (para 21). There has been no material change to the proposal considered at the last Public Inquiry. There is therefore no basis for the Inquiry to reconsider the matters referred to in reason for refusal 2.

Reason for Refusal 3

- 5.8 Clarification has been sought from St Albans District Council to what this reason for refusal 3 is referring to. It is almost identical to the reason for refusal 3 in 2007. It is therefore assumed that the matters it refers to are the same as last time.
- 5.9 The issue of sustainability in PPS1 was addressed by the Inspector and the Secretary of State at the last Inquiry. The Secretary of State concluded that minimal weight should be afforded to the doubts expressed about the benefits in terms of CO2 savings (para 49).
- 5.10 The Secretary of State agreed (para 39) with the Inspector's considerations of how workers would travel to the Site and, having regard to the provisions of the draft Travel Plan, she stated that it would not be reasonable to refuse planning permission for the development on account of sustainability concerns relating to the workforce's likely pattern of travel to work.
- 5.11 Should this issue be reconsidered it will be shown that the proposed SRFI is a core part of the Government's sustainable distribution policy, it will be demonstrated that increasing the proportion of the region's freight movement carried on rail is a key target on the monitoring framework for the East of England Plan objective of reducing the region's impact on and exposure to the effects of climate change and can help address major concerns that continued growth in road traffic will lead to unacceptable congestion and delays. It will be submitted that the allegation that the proposal is not consistent with the principle of sustainable development was not supported by any analysis in the SADC officer's report, and thus reason for refusal 3 is not consistent with Government policy that reasons for refusal should be complete, precise and specific.

Reason for Refusal 4

- 5.12 The RSS makes no locational decisions regarding SRFI's and there are no locations proposed in the East of England for an SRFI to serve the Greater South East. The Alternative Sites Assessment has shown the Application Site to be an appropriate location to meet the identified need. Neither the South East Plan and/or the London Plan identify the 3-4 sites for SRFI (or indeed any sites). There are no more suitable locations identified in any plan, anywhere in the Region, and therefore it cannot be said that there is any TR10 objection to this development.

Reason for Refusal 5

- 5.13 It is not accepted that the application is premature. Prematurity was addressed at the last Inquiry and the Secretary of State (para 40) agreed with the Inspector that refusing the application on prematurity grounds would inevitably lead to substantial delay in providing further SRFI's to serve London and the South East contrary to the Government's declared aim of increasing the proportion of freight moved by rail. In addition the Inspector said that there was no reasonable prospect of a region wide study being undertaken and its findings accepted as binding within a reasonable timeframe (paras 16.109-114). This situation has not changed.
- 5.14 If this issue is reconsidered it will be demonstrated that Government guidance on prematurity requires that planning application should continue to be considered in light of current policies, and advises that refusal on prematurity grounds would seldom be justified. The Government has not, through introducing NPS, placed a moratorium on major infrastructure decisions until the NPS is provided. A trans-regional assessment is not planned, and is unlikely to come forward. It will further be shown that DfT policy on Strategic Rail Freight Interchange states an expectation that the private sector will bring forward proposals for new facilities. The DfT Regional Planning Assessment's reference to the major strategic potential for Radlett Aerodrome will be referred to. The Alternative Sites Assessment prepared by the Appellant has taken an inter-regional perspective as far as appropriate to the appeal proposal. It will be demonstrated that Policy T10 of the East of England Plan does not endorse the District Council's view that there should be an inter-regional study by the

regional planning bodies to identify a site for the SRFI that is required to serve the northern quadrant of London and the East of England Region.

- 5.15 It will be shown that the approved Howbury SRFI is not designed to, and will not, meet the need which this proposal is designed to meet. The identified need is in any event for 3-4. This is precisely the recipe for delay which will mean that sustainable transport proposals are not delivered in good time. The suggestion that one has to wait and see whether there is left over demand after Howbury is misconceived.

Reason for Refusal 6

- 5.16 Both the Inspector and Secretary of State concluded (para 33) that there was no reason to refuse the application on grounds of the rail network and the availability of rail paths and further that freight trains to and from the SRFI would not prejudice the ability of the MML to carry passengers and accommodate growth in passenger numbers.
- 5.17 The Secretary of State clearly concludes that there is a need for SRFI's to serve London and the South East and that this is a material consideration of very considerable weight. The Secretary of State also concluded that the North West sector of the M25 is the correct area of search for alternative sites (para 42). There is therefore no basis for the Inquiry to re-consider the matters referred to in reason for refusal 6.
- 5.18 In the event that this issue is reconsidered, it will be demonstrated that whilst Network Rail does not as a principle make open-ended guarantees about future network capacity anywhere on the network, it considers that the main line should in principle have the capacity to accommodate the additional rail traffic generated by the proposals (12 trains per day each way). It will further be demonstrated that specific paths on the main line will be taken up as demand grows following occupation, and as train operators apply for paths through the normal annual timetable planning process. The requirements for gauge enhancement were fully considered at the previous Inquiry and it was not considered by either the Inspector or the Secretary of State to be an impediment to granting planning permission. It will be demonstrated that an SRFI creates its own demand and place in the market.

Reason for Refusal 7

5.19 The Secretary of State addressed the issue of landscape impact, and as stated above, the only issue for the Inquiry now is the Alternative Sites Assessment in regard to the green belt balance. There is no basis for the Inquiry to re-consider the matters referred to in reason for refusal 7. If this issue is reconsidered it will be demonstrated that there have been no material changes since the last Public Inquiry. Only 50% of the Development Site (Area 1 and 2) will be developed, with the remaining proposed for landscaping, which has previously been demonstrated to provide landscape benefits.

Reason for Refusal 8

5.20 At the 2007 Inquiry the Council called expert evidence from a highly qualified consultant. The issue was considered in depth with detailed examination and cross examination on all relevant issues. Clarification is being sought from St Albans District Council as to what this reason for refusal is referring to. It is almost identical to the reason for refusal 10 in 2007. The Inspector and the Secretary of State dismissed the Council's concerns in regard to that reason for refusal. The Secretary of State agreed with the Inspector's conclusions that the Appellant's proposed condition 22 would be reasonable and that noise from the development would not bring the proposal into conflict with the Development Plan (para 30). There is no basis for the Inquiry to re-consider the matters referred to in reason for refusal 8. If this issue is reconsidered it will be demonstrated that there have been no material changes since the last Public Inquiry.

Reason for Refusal 9

5.21 Clarification is being sought from St Albans District Council as to what this reason for refusal is referring to since the last Inquiry considered air quality concerns in regard to the same areas as referred to in this reason for refusal. The Secretary of State agreed with the Inspector that air quality concerns should not constrain the development (para 31). There is no basis for the Inquiry to re-consider the matters referred to in reason for refusal 9. If this issue is reconsidered it will be demonstrated that there have been no material changes since the last Public Inquiry.

Reason for Refusal 10

- 5.22 The Appellant have sought to agree Conditions and Draft 106 Obligation with St Albans District Council. This is essentially a "*holding*" reason for refusal. The Appellant has previously demonstrated that the funding and long term management of the Country Park will deliver the improvements intended. The Secretary of State concluded that the proposals for the Country Park would be beneficial to the Countryside and would add to the biodiversity interests present on the Site.

Reason for Refusal 11

- 5.23 Clarification is being sought from St Albans District Council as to what this reason for refusal is referring to. It is almost identical to reason for refusal 15 in 2007 (save for reference to archaeology having been removed from the wording, however the archaeology policy is still referred to).
- 5.24 In regard to footpaths the Secretary of State agrees (para 37) with the Inspector that the harm to existing footpaths and bridleways is outweighed by the proposals for improvements. In regard to ecology the Secretary of State agreed with the Inspector that, having regard to the fact that Natural England raised no objection, that any harm resulting from the proposed development to ecological interests would not be significant (para 29). Natural England have again raised no objection to the current application. There is no reason for the Inquiry to re-consider the matters referred to in reason for refusal 11. If this issue is reconsidered it will be demonstrated that there have been no material changes since the last Public Inquiry.

Reason for Refusal 12

- 5.25 A Statement of Common Ground between the Appellant and the Highways Agency is being prepared which it is anticipated will lead to the removal of the Highway Agency's Article 14 Direction and consequently Reason for Refusal 2.

Reason for Refusal 13

- 5.26 A draft Section 106 Obligation has been sent to the Council and despite numerous requests to meet and discuss it, these requests have not been taken up by the Council.

Reason for Refusal 14

- 5.27 A Statement of Common Ground is being prepared between the Appellant and Hertfordshire County Highways. It is hoped that this will at least limit the oral evidence required and it may lead to only written representations being submitted.

6.0 CONDITIONS AND 106 OBLIGATION

- 6.1 Draft conditions and the S106 planning obligation were sent by the Appellant's Solicitors to the Council on 24 June 2009. The Council's Solicitor replied on 27 June stating that he would "respond shortly". The Appellant's Solicitors wrote to the Council chasing for a response on 21 July. The Council's Solicitor replied on the same date stating that he was "obtaining instructions". The Appellant's Solicitors wrote to the Council again on 22 September requesting a meeting, before the pre-inquiry meeting, to discuss the conditions and S106 obligation. The Council's Solicitor replied on 23 September stating that he was "taking instructions and will reply shortly". The Council also stated in their Appeal Questionnaire at Q21J that they would supply the comprehensive list of conditions by 30 September.

7.0 CONCLUSIONS

- 7.1 The Appellant will conclude that very special circumstances exist justifying development in this location and that the proposal would deliver significant planning benefits.
- 7.2 It will be shown that the appeal proposal therefore accords with national, strategic and local planning policy and the Inspector will be requested to recommend allowing the appeal and to grant outline planning permission subject to conditions and completion of a Section 106 Agreement.

7.3 The appellant has dealt with the Secretary of State's concerns regarding the Alternative Sites Assessment and in regard to conditions and obligations.

8.0 LIST OF DOCUMENTS WHICH MAY BE REFERRED TO BY THE APPELLANT

In addition to those listed in the Core Document List at Appendix D of the Statement of Common Ground, the Appellant may refer to the following:-

1. Relevant National Planning Policy Guidance including PPS1, PPG2, PPG4, Draft PPS4, PPS7, PPS9, PPS11, PPG13, PPG15, PPG16, PPS23, PPG24 and PPS25.
2. Relevant Strategic Planning Policy Guidance including, the East of England Plan (May 2008); the South East Plan (May 2009); the Mayor's London Plan (consolidated version February 2008).
3. The St Albans City & District Council Local Plan Review (adopted November 1994) and the July 2009 Emerging Core Strategy Consultation Document.
4. Relevant Government reports and announcements.
5. Relevant Supplementary Planning Guidance & draft or subsequently adopted Planning Policy Guidance.
6. Relevant Correspondence.
7. Any other relevant information.

8.1 In addition, a number of the Core Documents used at the previous Public Inquiry, listed in Appendix B of the Inspector's Report are likely be referred to, including updated versions of these documents.



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