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Woods Hardwick

Planning

15-17 Goldington Road
Bedford MK40 3NH

Tel +44 (0)1234 268862
Fax +44(0)1234 353034

planning@woodshardwick.com
www.woodshardwick.com

Outline planning application (approval of means of access, siting and landscaping only) for the development of a Strategic Rail Freight Interchange comprising intermodal area, distribution buildings (Class B8 use) and other related floorspace (Class B1/B2 use) up to 331,665 sq.m. with a maximum height of 20 metres together with associated road, rail and other infrastructure works including parking for up to 1602 cars and 617 lorries with earth mounding, tree planting and a new Park Street/Frogmore relief road. Includes additional landscape and other works on further sites to provide public access to open land and community forest. The overall proposals involve some 419 hectares.

Appeal by Helioslough Ltd

In relation to land at

North Orbital Road, St Albans

SUMMARY

PROOF OF EVIDENCE

J B HARGREAVES DIP TP MRTPI

on behalf of

St Albans City & District Council

Appellant Ref. 4093
Planning Inspectorate Ref. APP/B1930/A/09/2109433/NWF
Local Planning Authority Ref. 5/09/0708
Woods Hardwick Planning Ltd Ref. JBH/KJB/2763

Directors

Christopher S Brackley BSc
John B Hargreaves Dip TP MRTPI

Associate Directors

Russell Gray BA (Hons) Dip UP MRTPI

Associates

Woods Hardwick Planning Ltd
Registered in England no. 3698838

Registered Office: Equipoise House
Grove Place, Bedford MK40 3LE

October 2009

1.0 Introduction

John Bernard Hargreaves Dip TP MRTPI will say:

- 1.1 I hold a Diploma in Town Planning and I am a Member of the Royal Town Planning Institute.
- 1.2 I have over 30 years experience in both local government and private practice.
- 1.3 I have been a Director of Woods Hardwick Planning Ltd of 15-17 Goldington Road, Bedford MK40 3NH since January 1999. Between mid 1988 and January 1999 I was an Associate Director with the multi disciplinary practice Woods Hardwick Ltd where I was responsible for all town-planning matters. Before then I worked for 14 years in Local Government much of the time as Team Leader Development Control for Bedford Borough Council
- 1.4 My evidence is presented on behalf of St Albans City & District Council in relation to planning policy matters.

2.0 Scope of Evidence

- 2.1 The appeal is against the Council's refusal to grant outline planning permission for the development of a strategic rail freight interchange on land in and around former aerodrome, North Orbital Road, Upper Colne Valley, Hertfordshire.
- 2.2 A similar proposal was the subject of a refusal of planning permission in 2007 which was the subject of an appeal in November and December 2007 which the Inspector recommended be dismissed (9/CD/8.2), and the Secretary of State agreed (9/CD/8.1).
- 2.4 My evidence considers the development proposals in the context of the development plan and other material considerations.

It deals with the reasons for refusal

- 1. & 2. In relation to Green Belt policy
- 3. Sustainability
- 5. Prematurity

13. S106 matters

3. Approach to Determination

In Section 3 of my evidence I deal with the requirement that determinations shall be made in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the documents set out in the SoCG (9/CD/7.1) and I set out that since the previous Inquiry there have been a number of changes to the planning policy context including the East of England Plan and a number of other documents published.

4. Legislative Changes

4.1 Since the previous scheme was considered the Planning Act 2008 has been enacted, which includes provision for National Policy Statements for rail freight interchanges.

5.0 Green Belt

5.1 In this section I deal with the first reason for refusal regarding Metropolitan Green Belt. In particular I cover the history of the designation of this area and the advice in PPG2 Green Belts in relation to the approach to be adopted to development in Green Belt.

6.0 Strategic Rail Freight Interchange Policy

In this section I review the current position in relation to Strategic Rail Freight Interchange Policy and in particular matters which have changed since the previous appeal.

7.0 Progress Towards Meeting the Need – Alternative Sites

In this section I consider the policy position in relation to a number of potential alternative locations for SRFI's which perform better than Radlett in the SDG Alternative Sites Study.

8.0 Prematurity

In this section I deal with Reason for Refusal 5.

9.0 Sustainability

The third reason for refusal deals with sustainability, which I deal with in this section in relation to

- Plan Led System
- Environmental Protection
- Carbon Reduction
- Sustainable Economic Development

10. Section 106 Undertaking

This section addresses how the S106 Undertaking is deficient by not binding the landowners of part of the site.

11. Conclusions and Overall Balance

In this section I deal with the various issues considered in the earlier appeal by considering first the Inspector's Conclusions and then the Secretary of State's view. I then set out the Council's position in relation to the current appeal.

Green Belt

11.2 The Secretary of State agreed with the Inspector that the development would constitute inappropriate development in the Green Belt and she attached substantial weight to that harm. The appellant therefore has to demonstrate that harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by very special circumstances that justify granting planning permission.

11.3 She agreed that the proposal would have a substantial impact on the openness of the Green Belt and harm on that account could not be mitigated and result in significant encroachment into the countryside, and contribute to urban sprawl and harm to the setting of the historic city of St Albans.

- 11.4 The Council agree with the Inspector's reasoning and Secretary of State's conclusion in these respects and since nothing has changed in the present scheme, these conclusions should be reached again in the present case.
- 11.6 For the reasons given by Mr Billingsley with which I agree, the Council consider the Inspector and the Secretary of State were wrong in relation to the merging or coalescence point. As a result there is further harm done to the Green Belt than was assessed previously and this is further harm which will need to be overcome by demonstrating very special circumstances.
- 11.8 The Secretary of State agreed that at year 15, the proposed development would have a "significant adverse" landscape impact on Area 1.
- 11.11 As in relation to the Green Belt issue, the Inspector's reasoning and the Secretary of State's conclusions are relied upon in part because the scheme is the same as before. However, Mr Billingsley has criticised the assessment of these matters in the ES, and he concludes that the impact is in fact greater than the Inspector assessed.

Ecology

- 11.13 The Secretary of State agreed that harm resultant from the proposed development to the underlying ecological interest would not be significant.
- 11.14 Mr Hicks in his evidence has drawn attention to the changed status of Area 1 as a County Wildlife Site which now contradicts the Inspector's conclusion about the absence of any ecological or other designation. The likely greater attractiveness to birds in the future by the removal of the hedge across the site also means that the Inspector's conclusion that the mitigation might not be sufficient to fully offset the losses under values the position and the Secretary of State's conclusion that the harm would not be significant is therefore also wrong.

Air Quality

- 11.15 The Inspector concluded that traffic using the A5183 through Park Street would be reduced by the proposed bypass and that if there was an air quality impact here, it should be an improvement. In relation to Elstree crossroads he concluded that air quality concerns should not constrain the development. The Council accepts these conclusions.

Noise

- 11.17 The Secretary of State agreed with the Inspector's assessment on noise matters and that appellants' proposed condition 22 was reasonable.
- 11.18 The Council disagree with the previous Inspector's findings and the Secretary of State's conclusion. For the reasons set out by Mr Stephenson, the Inspector is invited to consider the matter and to conclude that there will be unacceptable noise in the context of changed guidance.

Rail Issues

- 11.22 The Council's expert evidence on these matters from Mr Wilson makes it plain that circumstances have changed since the previous Inquiry and from the technical and operational perspective the facility will not be capable of operating as an SRFI.

Highways

- 11.25 The position in relation to the Highway Authority has not been clarified at the time of writing.

Sustainability

- 11.27 The Secretary of State agreed that "proximity to workforce" is one of the key factors listed by the former Strategic Rail Authority to be taken into account in selecting sites for SRFIs and agrees with the Inspector that the appeal site performs poorly against this criterion.
- 11.28 The Council rely on the Secretary of State's conclusion regarding how this site performs in relation to the SPA "proximity to workforce" criterion. There have been no changes in circumstances which would affect that conclusion.
- 11.29 The importance of that conclusion is in relation to the assessment of alternative sites where other locations perform significantly better on this basis, as Mr Wilson has pointed out. I have also made the point that such matters cannot be considered on an ad hoc basis, and the

benefits of new employment opportunities are best considered in a wider context, such as that offered by National Policy Statement or a trans regional assessment.

11.32 The Secretary of State agreed that a refusal of planning permission on prematurity grounds would lead to a substantial delay in providing further SRFIs to serve London and the South East.

11.33 I have set out in my evidence how the advent of the National Policy Statements and other Government initiatives and the grant of consents elsewhere have made the Inspector's and the Secretary of State's conclusion wrong. Far from 'substantial delay', in meeting the need the evidence is that there are now already 1 or 2 SRFIs permitted, and only a relatively short timescale involved in determining what further provision should be made and where.

Park Street and Frogmore Bypass

11.34 The Inspector concluded that there was no doubt that traffic on the A5183 through Park Street and Frogmore would be reduced (16.143). He also concluded that the impact of this and environmental enhancement measures would be positive. The Council accept these conclusions.

Country Park

11.35 The Inspector concluded that the proposals would be beneficial to the countryside (16.146). The Council for the reasons set out by Mr Billingsley consider that the benefit of the Country Park proposals is overstated.

Prematurity

11.36 The Council contends that the Inspector accepted that there were circumstances under which it would be possible to argue the proposal was premature (16.111), but did not ultimately support the Council's case (16.114).

The Council argue that circumstances have changed and that the prematurity case is now made out.

The Needs Case

- 11.39 The Secretary of State agreed with the Inspector's assessment including that Government policies have consistently supported shifting freight from road to rail. She also agreed that the former Strategic Rail Authority's SRFI Policy gave no indication as to where the three or four SRFIs required to serve London and the South East should be located, and that there was no evidence to support the appellant's assertion that the SRA specifically identified Radlett as one of these locations.
- 11.40 The Council are content to rely on the Inspector's reasoning and the Secretary of State's conclusion in relation to this matter. There have been no changes in circumstances since the previous appeal to warrant any different conclusion now being reached.
- 11.42 The Secretary of State agreed with the Inspector that whether or not the need which the proposal sought to meet could be met in a non-Green Belt location, or in a less harmful Green Belt location, was a material consideration in this case and that it was sensible and pragmatic to restrict the search for alternative sites to a SRFI at Radlett to broadly the north west sector studied by the appellant.
- 11.43 The Council do not accept that a sectoral approach is warranted in this case, for the reasons set out in Mr Wilson's evidence.
- 11.44 In relation to the assessment of alternative sites, the previous Inspector said:
- To my mind, for the many reasons given above, the results are wholly unconvincing and little reliance should be placed on the report as it stands.*
- 11.47 Since the Alternative Sites Assessment included with the current application is different from the one considered in relation to the previous proposal, it is not necessary to address the extent to which the Council rely on the Inspector's or the Secretary of State's previous conclusions. There is a new study and it has to be considered as such.
- 11.49 For the reasons set out in Mr Wilson's evidence, the Council believe that the different methodology now employed by the appellants in their new Alternative Site Assessment is also materially flawed.

11.50 Moreover, evidence has now been brought by the Council not only just to criticise the approach adopted by the appellants but also to show that by using an objective methodology, based on the SRA SRFI policy criteria, that there are indeed other, better sites than Radlett, even amongst the relatively few sites which have been put forward for such use.

Overall Balance

11.52 The Secretary of State said

59. For the reasons given above, the Secretary of State has concluded that the proposal does not comply with the development plan as it is inappropriate development in the Green Belt, and that it would also cause substantial further harm to the Green Belt. She has also identified limited harm from conflicts with the development plan in relation to landscape and visual impact and highways, but considers these would be insufficient on their own to justify refusing planning permission. The Secretary of State is not satisfied that the appellant has demonstrated that no other sites would come forward to meet the need for further SRFIs to serve London and the South East, and she is unable to conclude that the harm to the Green Belt would be outweighed by the need to develop an SRFI at Radlett and that this is therefore a consideration amounting to very special circumstances. Having balanced the benefits of the proposal against the harm to the Green Belt, she also concludes the benefits of the proposal taken either individually or cumulatively would not clearly outweigh the harm to the Green Belt and do not constitute very special circumstances.

60. The Secretary of State therefore concludes that there are no material considerations of sufficient weight which require her to determine the application other than in accordance with the development plan.

11.53 I have considered each of the material considerations which the Inspector and the Secretary of State assessed in relation to reaching a judgment regarding the overall balance in this case.

11.54 In some respects there have been no changes in circumstances since the previous appeal and because the scheme is the same, there is no justification for any different conclusion being reached now, than was reached then. That applies in part to the Green Belt, Landscape & Visual Impact and the S106 cases.

- 11.55 On other matters there have been changes in circumstances which warrant the matter being reassessed and different conclusions drawn. This is the position in relation to the rail case, sustainability, prematurity and noise. In the case of ecology the changes in circumstances should lead to a different assessment as to the weight to be given to the matter.
- 11.56 Then there is the issue of Alternative Sites where, as I have pointed out, the matter needs to be considered afresh.
- 11.57 Where any reassessment should, and has been, undertaken, the outcomes are that the appellant's case is significantly weaker than it was previously.
- 11.58 That is no better shown than in relation to the Alternative Sites Assessment, where the new study is materially flawed and subjective, compared with the Council's robust and objective assessment.
- 11.59 The Secretary of State was not satisfied that no other sites would come forward to meet the need in relation to the previous appeal.
- 11.60 The Council has now demonstrated that 1 or 2 have already been permitted, thereby reducing the need and the urgency for others to be found, and that amongst other potential candidates (which ought to be assessed in a wider context) Radlett is not nearly the best.
- 11.61 In these circumstances, if very special circumstances were judged not to have been demonstrated previously, the position now must be that the appellants are even further from meeting that test.
- 11.62 Not only is that true in relation to the need to overcome inappropriateness in terms of Green Belt policy, but as has been shown there is other harm to the Green Belt which in the Council's contention was under assessed in the previous appeal.
- 11.63 Conflict was also identified previously with the development plan which was not adjudged to justify refusing planning permission. Again the Council contend that this situation is now different in the context of the further evidence brought to the Inquiry, and a different conclusion on this matter is also justified.

11.64 Taking all these matters into consideration, it is my view that the Secretary of State's overall conclusion in respect of the previous application is still appropriate – that there are no material considerations of sufficient weight which require that the application be determined other than in accordance with the development plan.

11.65 I therefore respectfully invite the Inspector to recommend accordingly to the Secretary of State.