

Notes of Rail Freight Briefing to Members and Other Interested Parties
Friday 12 December 2008 At 11.05am In Committee Room 2

Present:

Councillors:

Donald, Lee, Turner and Yates

Officers:

Daniel Goodwin – Chief Executive

Mike Lovelady – Head of Legal and Democratic Services

Glen Mathers – Corporate Administrator

Others in Attendance:

John Bell – Chiswell Green Residents Association

Cathy Bolshaw – STRIFE

Eve and David Brown – Private Residents

Sandra Constable – Park Street Residents Association

Ian LaRiviere – Private resident

Ann Morton – Bricket Wood Residents Association

Bill Pryce – St Stephen Parish Council

Peter Trevelyan – St Albans Civic Society

Sandy Walkington – Hands Off Herts

Purpose of meeting

Daniel Goodwin welcomed everyone and advised that the briefing had been arranged by him following requests to his office and was particularly designed for those that had responded and given evidence at the Public Inquiry regarding the previous Railfreight application by Helioslough. It was stressed that this was not a campaigning meeting, despite comment in the local press from which that might be inferred. In view of this, Anne Main MP, who would have been at this briefing had decided not to attend. The following matters would be addressed:

- The Council's role as Local Planning Authority (LPA)
- LPA powers and processes to be followed
- The role of members on planning committees

Current position and future action

- A letter had been received from Helioslough requesting the Council's opinion on an environmental scoping report. The Council was required to respond within a deadline and the Planning Department was intending to respond before Christmas. It was envisaged that both the environmental scoping document and the council's response would be available for public inspection.
- The Council as LPA was required to determine any planning application on its merits, having regard to the Development Plan and any other material considerations. On receipt of any future Railfreight application Planning Officers would follow their usual administrative processes.
- Mike Lovelady briefed the meeting on the legal powers open to Local Planning Authorities under section 70A of the Town and Country Planning Act 1990 to decline to determine an application where within the last two years the Secretary of State

has dismissed an appeal against a similar application. This was a discretionary power and certain conditions must be met before an LPA could consider whether to exercise the power. Any decision by an LPA to decline to determine an application could be challenged by an applicant in the High Court by judicial review.

Discussion

- Councillor Donald asked what aspects would be examined in any judicial review – due process or grounds for refusing an application. Mike Lovelady responded that the High Court would only look at whether powers had been applied correctly; it would not take a view on the planning application.
- Sandy Walkington asked about timescales between the submission of an application and the decision of the council on whether to determine it. Mike Lovelady responded that a reasonable period might be four to six weeks. In response to further questions he advised that if in the event the Council exercised its powers under section 70A not to determine an application and this was upheld by the High Court, the applicant would be able to submit a different application.
- Peter Trevelyan referred to the progress of the Local Development Framework and also to the national significance of a railfreight development and lack of overview of how London would best be served. He also referred to future plans for large applications of national significance to be determined by a higher body. Councillor Lee responded that she would prefer any application to be determined locally as the Council knew the area best and would be able to apply local expertise.
- In answer to a question Mike Lovelady said it was not appropriate to comment as to what might be regarded as ‘material considerations’ under Section 70A. This would be addressed if and when an application was received.
- If and when an application that met requirements was registered local residents would be notified in the usual way. The Council would consult with the relevant statutory bodies and with local residents and parish councils as before and there would be the opportunity to make written representations which would be included in the Committee report. It was likely that any further application would be determined by the Planning Referrals Committee as before. The meeting would be held in a suitable venue to allow for a potential large public presence and would be webcast. The timetable for determination of an application was 13 weeks.
- Mr Brown asked whether the previous application was still available for inspection on the Council’s website. Mike Lovelady undertook to check with the planning department and email a response.
- Councillor Yates wished to make a clarification regarding reference earlier in the meeting to Helioslough writing to the Press. He advised that Helioslough had written to Ward Councillors and that he had made the text available to the Press.

Daniel Goodwin concluded the meeting by confirming that he would write to Helioslough so that they were aware on the status of this briefing. He would also write to the Press in response to their statement. Mike Lovelady advised with regard to the environmental scoping document that Officers would seek clarification on the status of Helioslough’s document and the Council’s response.

The meeting ended at 11.47am.