



Office of the
Deputy Prime Minister
Creating sustainable communities



Susan Turner
Decision Officer

Planning Central Casework Division
Office of the Deputy Prime Minister
3/11 Eland House
Bressenden Place
London SW1E 5DU

Direct line: 020 7944 8722
Fax: 020 7944 5929
Web site: www.odpm.gov.uk

Our Ref: APP/J0350/V/03/1116914

26 April 2004

Eversheds
115 Colmore Row
Birmingham
B3 3AL

Dear Sirs,

Town and Country Planning Act 1990 - section 77
Application by Crowngate Heathrow Ltd
Land at Poyle Manor, Poyle Road, Colnbrook, Slough
Ref: P/10914/005

1. I am directed by the First Secretary of State to say that consideration has been given to the report of the Inspector, P E Dobsen MA (Oxon) DipTP MRTPI FRGS, who held a public inquiry between 6 to 8 January 2004 into your client's application for planning permission for the erection of a data centre (the electronic storage and distribution of data) at Poyle Manor, Poyle Road, Colnbrook, Slough. On 6 May 2003, the Secretary of State directed, in pursuance of section 77 of the Town and Country Planning Act 1990, that the application be referred to him rather than being dealt with by the Local Planning Authority, Slough Borough Council.
2. The Inspector, whose conclusions are reproduced as an annex to this letter, recommended that planning permission be granted, subject to conditions. A copy of the Inspector's report is attached.
3. For the reasons given below, the Secretary of State accepts the Inspector's recommendation.

Procedural matters

4. The Secretary of State notes that the application drawings were revised following negotiations between the applicant and Slough Borough Council and has determined the application on the basis of the revised drawings, as set out in paragraph 3 of the Inspector's report.
5. At the inquiry, the applicant tabled a draft s106 planning agreement, which concerned the non-implementation of a previous planning permission for a hotel on the application site. The Secretary of State notes that an agreement was not completed before the close of inquiry, but agrees with the Inspector that a completed agreement along these lines is not necessary as if the data centre were to be implemented, the hotel could not physically be built (IR4 and IR94).

Policy considerations

6. Section 54A of the Town and Country Planning Act 1990 requires that proposals are determined in accordance with the development plan unless material considerations indicate otherwise. At the time of the inquiry, the development plan comprised the Berkshire Structure Plan 1997 and the Spelthorne Borough Local Plan 1991. The draft Slough Borough Local Plan, which was awaiting adoption at the time of the inquiry, was formally adopted on 22 March 2004. Upon its adoption, it replaced the Spelthorne Borough Local Plan as the adopted local plan in respect of the application site and now forms part of the development plan for the purposes of S54A of the Town and Country Planning Act 1990. The Secretary of State notes that a replacement Berkshire Structure Plan is emerging, with the EiP Panel Report published in December 2003. In view of the advanced stage that the review process has reached, the Secretary of State has accorded some weight to draft structure plan policies in reaching his decision.
7. Other material considerations of which the Secretary of State has taken account are Planning Policy Guidance Note 2: *Green Belt (PPG2)*; Planning Policy Guidance Note 4: *Industrial commercial development and small firms (PPG4)*; Planning Policy Guidance Note 7: *Countryside (PPG7)* and; Planning Policy Guidance Note 25: *Development and flood risk (PPG25)*.

Main considerations

8. The Secretary of State thinks that the main consideration in determining this application is Green Belt policy - whether the proposals represent appropriate development in the Green Belt and, if not, whether there are other material considerations that amount to the very special circumstances necessary to clearly outweigh the harm from inappropriate development plus any additional harm. In making his assessment he will consider the matters outlined by the Inspector at paragraph 96 of his report.

Harm from the development

9. The Secretary of State agrees with the Inspector that the proposal represents inappropriate development in the Green Belt (IR 97). It would, therefore, result in harm to the Green Belt and the Secretary of State accords this substantial weight.
10. In accordance with PPG 2, the Secretary of State has considered whether the proposed development would result in any additional harm.
11. The Secretary of State agrees with the Inspector that the data centre would be a very substantial building which would undermine the openness of the Green Belt and would be visible from many external viewpoints (IR 109). However, he notes that the site is not in open countryside and that it is strongly influenced by the proximity of a large industrial estate, a distributor road and adjacent land uses which include a recycling centre and gravel workings (IR 112). The Secretary of State considers therefore that there would be limited additional harm to the Green Belt in terms of loss of openness and visual impact. The Secretary of State agrees with the Inspector that while this factor does not by itself justify inappropriate development in the Green Belt, the proposals should be seen in that site context (IR 112).
12. The Secretary of State notes that there would be opportunities to retain existing trees and to create new-planted areas. He agrees with the Inspector that the external

appearance of the building would not be unlike those of other modern commercial buildings seen in business parks and that the data centre would appear as a large well designed contemporary building set amongst trees in well landscaped grounds. He agrees that the electricity sub-station would be relatively small in scale and unobtrusive (IR 111).

13. In view of the mitigation measures such as the new-planted areas, the good design of the building and the site context, the Secretary of State considers that that the additional harm to the Green Belt is limited.
14. The Secretary of State has also considered whether there would be any harm from the development to nearby industrial and commercial development. The Secretary of State agrees with the Inspector that the data centre would be detached and separate from any nearby land uses and that it would not have any particular physical or functional connection or relationship with the industrial and commercial uses on the nearby Poyle Trading Estate or on adjoining land (IR 114). On the basis of the evidence before him he does not identify any material harm from the data centre's impact on these uses. The Secretary of State agrees with the Inspector that the traffic generated by the proposed development would be too small to have any harmful effect on the local road network and that the building itself would be too far away from other commercial buildings to have any direct physical impact (IR 114).

Very Special Circumstances

15. The Secretary of State has considered whether there are other material considerations that amount to the very special circumstances necessary to clearly outweigh the harm identified above. Two main considerations were advanced at the inquiry:
16. *The existence of an extant planning permission for a hotel:* The Secretary of State accepts that the 1991 and 1995 permissions were implemented, in part in 1999, before the latter permission lapsed, he notes that these permissions have never been revoked nor has any completion notice been served. He agrees that they could lawfully be implemented to completion at any time (IR 100), as such he considers the 'fallback' position of the hotel a material consideration.
17. In order to assess the weight to be given to the prevention of the fallback position the Secretary of State has considered firstly the likelihood that the permission would be implemented. The Secretary of State notes that the inquiry heard no evidence that a named hotel operator or developer is currently interested in acquiring the site and completing the hotel development (IR 101). However, he accepts the applicant generalised arguments which he agrees indicate that the permission would be implemented, if not immediately, at least in the future (IR 102). The Secretary of State, therefore agrees with the Inspector that the hotel permission as 'fallback' is a significant material consideration in his consideration of the current application and he agrees that the impact of the proposed data centre should be compared with that of the hotel (IR 103).
18. The Secretary of State agrees that the proposed data centre would be less harmful than the hotel because a smaller proportion of the site would be built-up or contain hardstandings and that this would create greater opportunities for the retention of existing trees and the creation of new planted areas (IR 109). The Secretary of State also agrees that the data centre would be a considerably less intensive use of the site than what would be a very large hotel. He also agrees that day to day activity would be

at a relatively low and unobtrusive level and there would be relatively few comings and goings by employees and visitors (IR 110). This would be significantly different to a large hotel with 350 rooms and staff and visitors.

19. For the reasons set out above the Secretary of State thinks that the likelihood of implementation of the fallback position is a consideration in favour of the proposal and should be accorded some weight.
20. *The site lies within the Public Safety Zone (PSZ) West of Heathrow Airport:* The Secretary of State notes that much of the application site lies within the PSZ as defined in the Slough Borough Local Plan. It is the Secretary of State's view that this indicates that the proposed use would not ideally be located here. However, the Secretary of State considers that the fallback position outlined above is also relevant to his consideration here. He notes that the data centre would have about 40 employees and a variable but generally much smaller number of daily visitors, tradesman etc and that the hotel would normally expect to have far larger numbers of people on site (IR 104). The Secretary of State agrees with the Inspector that there can be no question that in terms of the PSZ the data centre represents a much lower risk to public safety than the hotel (IR 105). He accords this significant weight.

Other matters

21. *Flood Risk:* The Secretary of State agrees with the Inspector that there are no overriding objections to the proposed development on the grounds of flood risk for the reasons given in paragraph 113 of his report.

Overall conclusions

22. The Secretary of State has concluded that the development constitutes inappropriate development in the Green Belt. He has also identified limited additional harm to the Green Belt in terms of loss of openness.
23. The Secretary of State has considered whether the other material considerations put forward amount to the very special circumstances necessary to clearly outweigh this harm. The Secretary of State thinks that the extant hotel permission is central to his consideration in this case. He accepts that the hotel permission is likely to be implemented and that it would have a greater impact on the Green Belt and cause more harm than the proposed development. He also thinks the location of much of the site within the PSZ is an important consideration as the hotel development would result in far more people being on the site with the associated greater risk to public safety; significant weight is attached to this matter. The proposed development with its small number of staff poses a much smaller risk to public safety and in the circumstances of this case the Secretary of State considers that these matters in combination amount to the very special circumstances necessary to clearly outweigh the harm identified.
24. Having weighed up all the issues, the Secretary of State therefore agrees with the Inspector that there are very special circumstances in this case, which justify the approval of the data centre, which is an otherwise inappropriate use in the Green Belt, and contrary to normal Green Belt policies (IR 116).
25. For the reasons set out above, the Secretary of State concludes that the development would not comply with the Development Plan. However, he concludes that there are

material considerations that indicate that he should determine the application other than in accordance with that plan.

Conditions

26. The Secretary of State agrees with the Inspector (IR93) that the planning permission should be subject to the imposition of conditions. In order to meet the requirements of Circular 11/95 the Secretary of State has made a number of amendments to the conditions proposed by the Inspector. Many relate to drafting changes; the introduction of references to specific plans; and the amalgamation of conditions where considered appropriate. All have been made in the interests of clarity and to remove any unnecessary elements of the condition. More substantive amendments are described below:

- Condition number 1 has been amended to reflect the fact that there is no planning justification for the LPA requiring the future maintenance of internal parking, turning and loading space, nor an access to an internal road to be carried out to their satisfaction. It is the Secretary of State's view that should they be used for any other purpose the LPA should take enforcement action and has therefore deleted the last part of the proposed condition.
- The proposed condition relating to a revised plan showing no development within 8 metres of the top bank of the Poyle Channel has been deleted as this matter is now covered by plan (08)-001 Rev F .
- The proposed condition limiting the number of people employed full time of the site would in the Secretary of State's view be unenforceable and he has therefore deleted it.

Formal decision

27. Accordingly, for the reasons given above, the Secretary of State accepts the Inspector's recommendation. He hereby grants planning permission for the erection of a data centre (the electronic storage and distribution of data) at Poyle Manor, Poyle Road, Colnbrook, Slough, in accordance with application P/10914/005 dated 5 February 2002, subject to the following conditions:

- i) The parking and turning, loading and unloading space shown on the submitted plan No (08)-001 F shall be constructed within three months of the commencement of any part of the development hereby permitted, or such longer period as may be approved by the Local Planning Authority.
- ii) The development hereby approved shall be implemented only in accordance with the submitted application, plans and drawings Plans No (08)-001 F, (08)-002 F, (08)-003 F, (08)-003 C, (08)-005 C, (08)-006 C, (08)-007 D, (08)-008 B, (08)-009 B & (08)-010 hereby approved.
- iii) The development hereby permitted shall be used for no other purpose than as a Data Centre and uses strictly ancillary thereto.
- iv) A revised plan showing a comprehensive landscaping and tree planting scheme indicating trees and shrubs to be retained and/or removed and the type, density, position and planting heights of new trees and shrubs, together with the boundary treatment shall be submitted to and approved by the Local Planning Authority before the development hereby permitted is commenced.

The details should have regard to the Master Landscape Strategy (drawing No 08-010) hereby approved. The approved scheme shall thereafter be implemented before the building(s) is occupied, or during the first available planting season after occupation of the building(s).

- v) No demolition, site clearance or building operations shall commence until chestnut paling fencing of a height of not less than 1.2m has been erected around each tree or tree group to be retained on the site, in accordance with details hereby approved and no trenches, pipe runs for services and drains shall be sited within that area around the trunk of any tree which is to be protected by fencing unless in accordance with details hereby approved. Such fencing shall be maintained during the course of the development and no storage of materials or erection of buildings shall take place within the fenced area.
- vi) A scheme of archaeological investigation shall be completed before work on the development hereby approved is commenced.
- vii) Samples of external materials to be used on the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority before the scheme is commenced on site.
- viii) The wheel washing facilities for construction traffic shall be installed before the development hereby approved is commenced, and such facilities once installed shall be used to prevent mud and other debris being deposited on the highway (s) during the construction of the development hereby approved to the satisfaction of the Local Planning Authority.
- ix) Details of fencing and its alignment and hard surfaces shall be submitted for prior written approval from the Local Planning Authority before commencement of the development.
- x) The means of access, including any alterations to existing points of access between the application site and the highway shall be formed, laid out and constructed in accordance with specifications and with such sight lines as shall be submitted in further details to be approved by the Local Planning Authority.
- xi) Prior to the commencement of development details of the management of the landscape works shall be submitted to and approved by the Local Planning Authority. The management of landscaping works shall be carried out in accordance with the approved details. The management details shall cover a period of 5 years for trees and shrubs including the replacement of any tree or shrub which dies within that period. The details shall include specific management responsibilities and maintenance for Tree Preservation Order trees and new trees.
- xii) At no time shall external lighting be installed until a scheme has been submitted for prior written approval of the Local Planning Authority and shall not be commenced until such written approval is granted.

- xiii) No equipment, plant or stores or refuse shall be stored on site until details of external storage areas have been submitted to and approved in writing by the LPA.
- xiv) Prior to any building works being carried out, the applicant shall submit to the Local Planning Authority for its approval full details of sound insulation required to protect the internal parts of the building from aircraft noise. The design and construction criteria for the development of the Data Centre building, shall have regard to BS8233:1999 (British Standards 8283:1999 "Sound Insulation and Noise Reduction for Buildings - Code of Practice"). The design criteria shall achieve sufficient noise reduction to ensure that the noise from the activities generated inside the fabric of the premises shall not increase the pre-existing L90 as measured according to BS4142:1997 at any adjoining or nearby noise sensitive premises.
- xv) The development hereby permitted shall be commenced within five years from the date of this permission.
- xvi) Development shall not commence until a flood risk assessment has been submitted to and approved by the LPA (in consultation with the Environment Agency). Any approved flood attenuation works shall be completed within 12 months from the commencement of the development. The flood risk assessment should address the following issues:-
 - a) A 20% increase in flood flows due to climate change to be included in determining the 1 in 100 year flood plain.
 - b) The inclusion of a topographical survey of the entire site in terms of Above Ordnance Newlyn Datum.
 - c) The provision of evidence of no net loss of flood plain (subject to the results of the topographical survey) as a result of this development. Otherwise compensatory flood plain storage to be provided on a level for level basis.
 - d) The modeling of current existing overland flows from the adjoining sites shall be modeled and account taken of this in landscaping plans for the development.
- xvii) Surface water source control measures shall be carried out in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority before development commences.
- xviii) No development approved by this permission shall be commenced until a landfill gas risk assessment has been submitted to and approved in writing by the Local Planning Authority. Where a risk from migrating gas is identified, appropriate works to mitigate the effects of gas shall be incorporated in detailed plans to be approved by the Local Planning Authority.
- xix) Any soakways shall be constructed on natural ground such that their base is at least 1 metre above the highest seasonal water table and in any case no deeper than 3 metres.
- xx) The areas identified as the Moat Zone, the Linear Screening Zone and that part of the Riverside Zone west of the road bridge on Plan 2056 (008) 010

shall be delineated for a nature conservation area with controlled access to this area to be made available to recognised nature conservation groups. No development shall take place until the applicant has secured the implementation of a programme of ecological work (including arrangements for management and access) in accordance with a written scheme of investigation and plan, which has been submitted by the applicant and prior written approval obtained from the Local Planning Authority.

xxi) Prior to any building or engineering operations (apart from road access) commencing, a method statement shall be submitted for prior written approval of the LPA containing proposals for the following matters during the period of construction of the development:-

- a) parking of vehicles of site personnel, operatives and visitors.
- b) Loading and unloading plant and materials.
- c) Storage of plant and materials arising from the construction of the development.
- d) Details of siting operation and height of cranes.

Each of these facilities shall be retained throughout the course of construction of the development free from any impediment to its designated use and served by the approved access points.

xxii) Development shall not commence until details of the sub-station hereby permitted have been submitted to and approved by the LPA, the height of the proposed sub-station shall not exceed 6 metres. The electricity sub-station and any external machinery, plant or equipment installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that noise from there does not, at any time, increase the pre-existing L90 when the plant, etc, is in use as measured according to B.S.4142:1997 at any adjoining or nearby noise sensitive premises in separate occupation.

28. An applicant for any consent, agreement or approval required by condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

29. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than that required under section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

30. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court.

31. A copy of this letter has been sent to Slough Borough Council and to all those who appeared at inquiry.

Yours faithfully,

Susan Turner

Authorised by the First Secretary of State to sign in that behalf



Report to the First Secretary of State

by **P E Dobsen** MA (Oxon) DipTP MRTPI FRGS

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ GTN 1371 8000

Date:

19 February 2004

POYLE MANOR, POYLE ROAD, COLNBROOK, SLOUGH

PROPOSED DATA CENTRE

S77 CALL-IN INQUIRY

INSPECTOR'S REPORT

Inquiry held on 6-8 January 2004

Poyle Manor, Poyle Road, Colnbrook, Slough

File Ref: APP/J0350/V/03/1116914

File Ref: APP/J0350/V/03/1116914

Poyle Manor, Poyle Road, Colnbrook, Slough

- The application was called in for decision by the Secretary of State by a direction made under section 77 of the 1990 Act on 6 May 2003.
- The application is made by Crowngate Heathrow Ltd. to Slough Borough Council.
- The application (Ref. P/10914/005) is dated 5 February 2002.
- The development proposed is "erection of a data centre (the electronic storage and distribution of data)".
- The reason given for making the direction was because the Secretary of State considered that the proposal may conflict with national policies on important matters.
- On the information available at the time of making the direction the following were the 8 matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:- (i) the relationship of the proposed development to the adopted Berkshire Structure Plan 2006 and the adopted local plan for the area; (ii) the relationship of the proposals to the Government policy advice in Planning Policy Guidance Note 2, particularly with regard to the impact of the development on the openness of the Green Belt and, if the proposal would be inappropriate development in the Green Belt, whether there are any very special circumstances to justify the development which would outweigh any harm to the Green Belt; (iii) the relationship of the development to Government policy advice in Planning Policy Guidance Notes 4 and 7, with regard to the impact of the development on the semi-rural area, in particular the Colne Valley Park; (iv) the environmental, visual and landscape impact of the proposals on the amenities of the area; (v) the relationship of the proposed development to Government policy advice in Planning Policy Guidance Note 4, in particular the compatibility of the development with existing industrial and commercial activities in the surrounding area; (vi) the relationship of the proposed development to Government policy advice in Planning Policy Guidance Note 25, with regard to the development's location within a floodplain; (vii) whether there are any other material planning considerations relevant to the Secretary of State's consideration; and (viii) whether any permission granted should be subject to conditions, and, if so, the form they should take.

Summary of Recommendation: that the application be granted conditional planning permission.

Procedural Matters

1. I opened the inquiry at Slough Town Hall on 6 January 2004. The inquiry continued on 7 January, and I made an accompanied inspection of the application site and its surroundings on 8 January. Apart from the applicants and the local planning authority (supported by The Environment Agency on the single matter of a planning condition concerning flood risk assessment), one interested person appeared [Doc 1].
2. Slough Borough Council supports the application, and respectfully requests the Secretary of State to grant conditional planning permission.
3. The application is for full planning permission. The application drawings, as revised following negotiations between the applicants and Slough Borough Council, are as follows: site plan (08) 001F; ground floor plan 002F; 1st 2nd and 3rd floor plan 003C; elevations 005C; elevations/sections 006C; site plan with hotel superimposed 007D; elevations with hotel superimposed 008B; daylight assessment re Poyle Lodge and Poyle Corner 009B; landscape plan 010 [Plans A].
4. At the inquiry, the applicants tabled a draft S106 planning agreement [Doc 12]. This concerns the non-implementation of a previous planning permission for a hotel on the application site (see below for details). An agreement was not completed by the close of

the inquiry. The applicants have sent a further letter on the subject [Doc 13]. As far as I am aware, both they and the Council still intend to sign an agreement.

The Site and its Surroundings

5. The application site, which is irregular in shape and about 5 ha. in size, lies on the western side of Poyle Road, nearby to the south of the settlement of Colnbrook. It falls within the Metropolitan Green Belt, the Colne Valley Park and a Strategic Gap, and its central parts lie within a linear Public Safety Zone (PSZ) established in relation to Heathrow Airport, which lies about 3 kms. due east. The site is about 7-8 kms. (direct distance) to the south east of Slough town centre [Docs 4.3, 7.1, 7.2, Plan D].
6. Formerly the gardens and grounds of Poyle Manor, which was demolished some time in the 1960s, the site is now open and very largely undeveloped in character [Doc 8.20, Photo 2]. It contains several small areas of woodland, and many other individual trees, such that from some external viewpoints it appears to be predominantly woodland. Many of the trees are substantial and mature specimens ranged along the northern and other site boundaries. However, parts of the site have for a variety of reasons lost their former tree cover, and are now covered with adventitious saplings, shrubs and weeds. This gives it the overall character of degraded and fragmented woodland. Nevertheless, many of the remaining trees are the subject of a recently made Tree Preservation Order [TPO, Doc 5.4], which supersedes previous TPOs dating back to the 1960s.
7. A straight shallow watercourse, the Poyle Channel, crosses the central parts of the site from east to west [Plans A]. At one point this is crossed by a small concrete bridge, one of the elements built in the partial implementation of the previous permission for a hotel.
8. To the north of the site is a large, open and uncultivated field, which is a reclaimed former landfill site. To the south and west is the Poyle concrete recycling centre, which includes several substantial spoil and rubbish heaps visible from substantial distances. To the north west is an active gravel extraction site, containing low gravel heaps and plant etc. West of this are flat, open fields. All these land uses are within the Green Belt. Outside it, and on the east side of Poyle Road is the Poyle Trading Estate, a substantial area of industrial/office/warehouse buildings [Docs 7.1, 7.4].
9. There is a scattering of long established detached dwellings close to the western edge of the site. These take their access from the north [Plans A, Doc 7.3, Doc 8.20]. A pair of semi-detached 2 storey dwellings, Poyle Corner and Poyle End, lie within a few metres of the site boundary. These dwellings would be the closest to the proposed data centre.
10. Being largely surrounded by non-agricultural land, the site is clearly not within open countryside, but forms part of the flat, somewhat developed and despoiled urban fringe on the edge of Poyle. The area is not subject to any landscape quality designations [Doc 7.2]. Not far distant are the large expanses of the Wraysbury reservoir (to the south) and the Queen Mother reservoir (to the west) [Doc 7.1].
11. Located under a flight path, the area is also subject to highly intrusive aircraft noise from nearby Heathrow, and, to a lesser extent, from traffic noise from the nearby M25 and M4 motorways [Doc 7.2].
12. The site would take access from the Poyle Road, which runs north to meet Bath Road at Poyle. A mini-roundabout was built in 1994 at the access point, from which an internal access road would run north towards the bridge and the data centre. There are no public rights of way within the site [Doc 6.1].

Planning Policy

13. The application site lay within Spelthorne borough until boundary adjustments were made in the late 1990s. Thus technically the current development plan comprises the Berkshire Structure Plan, adopted in 1997, and the Spelthorne Borough Local Plan, adopted in 1991. (The hotel permissions were granted by Spelthorne Borough Council).
14. However, the Spelthorne plan has already been superseded in Spelthorne itself, and has been superseded in Slough for development control purposes for at least 2 years. I was told that the Slough Borough Local Plan, which in respect of this site will formally replace it, is likely to be adopted in January 2004; very probably before the Secretary of State receives this report. There is no suggestion to the contrary.
15. Extracts from these plans are contained in Docs 8.1, 8.2 and 8.3. Relevant policies are listed in Mr Stimpson's proof of evidence for the Council.
16. The replacement Berkshire Structure Plan 2001-2016 is currently emerging [Doc 8.19]. The EIP Panel report was published in December 2003.
17. The parties agree that the Slough Borough Local Plan [Doc 8.2], mentioned above, contains the most pertinent local planning policies.
18. National policy statements cited in the call-in letter include PPG 2 (Green Belts), PPG 4 (Industrial and Commercial Development and Small Firms), PPG 7 (The Countryside etc.) and PPG 25 (Development and Flood Risk). DfT Circular 1/2000 (Control of Development in Airport Public Safety Zones) is also cited by the parties [Doc 8.27].

Planning History

19. The main parties agree that the site's planning history is of considerable, and perhaps crucial importance in this inquiry. In particular, the site benefits from a planning permission for a large hotel which was first granted in 1991, and renewed in 1995 [Doc 5.6]. (Other planning permissions for hotel development had also been granted prior to this [Mr Stimpson's proof, para.2.2]). Implementation of this 1995 permission was commenced in 1999 [Doc 8.25]. The parties maintain that it remains extant, and could be implemented at any time without the need for further planning permission.
20. This previous hotel consent took up some inquiry time, as it represents the applicants' "fall-back position" in the event that the current proposals are not approved. Both main parties agree that, in those circumstances, the hotel permission both could, and would, be fully implemented. Thus much of the evidence to the inquiry was focused on comparing the effects and potential harm of the proposed data centre (on the Green Belt etc.) with those of the permitted hotel. I return to these matters below.

The Proposals

21. The proposed development is fully described in the Statement of Common Ground [SCG, Docs 4 and 5], and in the parties' proofs. In brief outline, the northern central part of the site would be occupied by a single, very substantial building for use as a data centre (a secure data storage facility, formerly referred to as a "telehotel"). This would have an irregularly shaped but essentially rectilinear floorplan, and would contain some 4 storeys (gr, 1st, 2nd, 3rd), very largely occupied by data storage facilities and equipment. It would contain some 26,135sq.m. floorspace, on a footprint of 7752sq.m, and would generally be about 21.85m. high [Doc 9].

22. Both the building's siting and footprint, and its overall height, would be very similar to those of the permitted hotel. However, its bulk and massing, architectural style, external materials and appearance would be rather different. [Plans A, Doc 8.14].
23. Contemporary in its design, the building would exhibit a variety of external materials. There would be concrete panelling to the ground floor to create a "plinth effect"; beige coloured terracotta cladding above that; with opaque glazing and dark grey screening grilles at the topmost levels [Plans A]. In some external viewpoints, the latter would be visible above the level of the highest trees.
24. The building would contain a small number of administrative offices etc. Based on similar facilities elsewhere, it would have about 40 permanent employees.
25. I understand from Mr Chadwick's evidence that BT (British Telecommunications plc) are the intended occupiers, and that both high levels of site security and access to purpose-built on-site power supplies are prerequisites of the development [Doc 6.2]. Thus the site would be securely fenced, and would have other (unspecified) security measures in place, and would be served by its own small on-site electricity sub-station. This would be located a little to the south of the building, between the Poyle Channel and Poyle Road. The sub-station might, or might not, be externally clad (this remains undecided), but would not exceed 6m. in height (see suggested conditions, Doc 11). It would have a footprint of 1225sq.m [Doc 9].
26. The development would not require large amounts of car parking (very little, compared with the hotel). Of the total 47 spaces, 40 would be sited just north of the sub-station [Plans A].
27. The remainder of the site would be landscaped, such as to place the building and the sub-station within a well-wooded and landscape-managed setting. Some trees would be felled, but many more planted. Most of those subject to the TPO would be retained. Several of the site's existing features, including the Poyle Channel and a pond in the north west corner of the site, would also be retained. A portion of the site west of the building would be reserved essentially for nature conservation, with provision for some public access. Otherwise, as at present, the public would have no access to the site.

Other Agreed Facts

28. The SCG [Docs 4 and 5] contains a description of the application and supporting material; a description of the proposals and the site; a summary of consultations on the application; a summary of the site's planning history; a summary of the parties' case on the main planning issues, and a list of suggested planning conditions (subsequently revised, see Doc 11).

The Case for Crowngate Heathrow Ltd [the applicants].

The material points are:

29. The proposed data centre would meet a requirement of BT and others to enable confidential and sensitive computer data to be stored in a highly secure environment. The application site is very suitable in size, being large enough to accommodate the building within a spacious, well wooded setting.
30. It would also be highly suitable in location, with its close proximity to Heathrow, to knowledge based and IT industries, and to London generally.

31. The data centre would need very few workers (about 40) for a building of its quite substantial floorspace. It is not therefore a major employment generating use, although it might qualify as a major development in other respects. Compared with the permitted hotel, the relatively low number of employees would be advantageous, given the location in the Heathrow PSZ. A planning condition should be used to restrict the use to a data centre, and to no other employment generating use [Doc 11].
32. It is important to note that Slough BC supports the application. Indeed, there are no major objections to it from consultees, including adjoining landowners. The Environment Agency, which was represented at this inquiry, raises no objection. The Council considers that a S106 agreement is needed to ensure the non-implementation of the hotel scheme. While the need for this is not accepted, an agreement is now in preparation [Docs 12, 13]. There is also agreement on some 27 planning conditions [Doc 11]. These would cover various detailed development control matters raised in consultations etc.
33. Among the suggested conditions, the applicants are prepared to accept a condition suggested by The Environment Agency, requiring the submission of a flood risk assessment. However, it is not thought, or claimed by any party, that the site is subject to any significant flood risk, or that the proposal would be contrary to advice in PPG 25.
34. *The effect of the extant hotel permission.* In 1991, Spelthorne BC (the previous local planning authority, before local government boundary changes) granted planning permission (for an application by Gulf Air) for the construction of a large hotel on the site, in much the same position as the data centre. The permission was renewed in 1995. The proposal was listed as a commitment in the Spelthorne Borough Local Plan, which technically remains extant, and is shown on its Proposals Map [Doc 8.3].
35. The permitted scheme includes a 5 storey hotel with 350 bedrooms, restaurant and bar facilities for 300 diners, as well as some 766 sq.m of leisure facilities (including a swimming pool), lobby, conference and meeting rooms. It also includes airline office accommodation, a bond store, and aircraft catering and equipment storage facilities. Within the grounds would be two tennis courts. Car parking, totalling 481 spaces, is provided, in addition to an enclosed area beneath the east wing, in two other locations: some 208 spaces to the north and east of the hotel building, and 181 spaces south of the Poyle Channel, and close to the site entrance on Poyle Road.
36. Certain material operations (Section 56, Town and Country Planning Act 1990) took place in 1999, and no one disputes that these amounted to a partial implementation of the scheme. They included works at the roundabout site access, some piling for foundations, and the Poyle Channel bridge. The Council too accepts this point [Doc 8.25]. While no further work on site has been done since then, nevertheless this permission remains extant. No further permission is required to fully implement the hotel scheme.
37. In the event that the current application for a data centre is not approved, the hotel permission both could (as a matter of law) and would (as a matter of market demand) be implemented. This is fully accepted by the Council, and is not contested by any party. Thus the hotel permission is very highly material to the current application, as it represents a sound "fall-back" position.
38. While there is no current hotel developer, and Gulf Air are in the process of disposing of the site to the applicants, a report recently commissioned from Insignia Hotels strongly suggests that there is every likelihood of the hotel permission being taken up if this application is not successful [Doc 6.3]. This report values the site with hotel development,

examines the current market for hotels around Heathrow, and concludes that, particularly in the light of approval for Heathrow Terminal 5, which will massively expand the numbers of flights and visitors there, there is a demonstrable market for a hotel on this site. Indeed, the site enjoys a particularly good location relative to T5, on the west side of the airport. In addition, there are very few if any other locations so close to Heathrow where a substantial new hotel could be built. While there is no certainty that a hotel would be built here in the immediate or near future, the site's value with hotel consent stands at about £12m. [Doc 6.3]. In general, the evidence confirms that one would be built in due course. In short, there is a reasonable prospect of implementation.

39. *Green Belt and other policies.* In terms of planning policy, it is accepted that the data centre represents a use which, in principle, is inappropriate development in the Green Belt (PPG 2, para. 3.1). Given that the application site has been substantially devoid of any development for many years, a large building such as this would affect the openness of the Green Belt, and would have a significant visual and landscape impact. That is not disputed. Considered in isolation, it would be contrary to Green Belt policy at both national and local levels. For similar reasons, it would be contrary to other local plan policies aimed at preserving the openness of the Colne Valley Park, and the Strategic Gap between Slough and London [Plan D].
40. However, one cannot simply appraise this proposal in isolation, because of the existence of the extant hotel permission. Instead, it must be compared with the hotel. Overall, the data centre would have less impact on the Green Belt, and on the objectives of other open land policies, than would the hotel.
41. It follows that in Green Belt (and other open land) policy terms, there are very special circumstances (PPG 2, para. 3.1) which justify a grant of planning permission. These circumstances are twofold, and derive from the existence of the hotel permission as the "fall-back" position: first, the fact that the data centre would have less physical/visual/landscape impact on the Green Belt than the hotel; and second, the fact that it would place far fewer people in the PSZ than the hotel.
42. To take the latter point first, as it can more simply be demonstrated. According to the best estimates made at the time of the hotel application, the hotel with 350 bedrooms would, under reasonably full occupancy levels, have several hundred guests at any time. It would also have large staff numbers, (although, as with the number of guests, these would of course fluctuate seasonally and diurnally.) The data centre, on the other hand, would only have about 40 staff, and probably no more than a handful of visitors at any given time. Thus, whatever the fluctuations in numbers, the data centre would always have far fewer people on site than the hotel.
43. Both buildings would be sited in the same position, and on approximately the same footprint. In the (highly unlikely) event of an air accident at the site, it is apparent that far more people would be at risk of death or injury in the case of the hotel, than in the case of the data centre.
44. DfT Circular 1/2002 (Control of Development in Airport Public Safety Zones) [Doc 8.27] states as a basic policy objective that there should be no increase in the number of people living, working or congregating in Public Safety Zones. Thus there is a presumption (Circular para.11) against new development in PSZs. However, it is important to note that there are stated exceptions to this. One of them is where there would be low densities of people, including (Circular, para.12[v]) open storage and certain types of warehouse development. The data centre, with only 40 employees on a 5 ha. site is an example par

excellence of such low densities. In fact, for a commercial development it would be difficult to find an example of a lower employee density than this.

45. Thus, apart from being very obviously preferable to the hotel as a use in the PSZ, the data centre would even be acceptable in the stated terms of DfT Circular 1/2000. It would not be contrary to the Circular.
46. *Visual and landscape impact.* This is important in the context of the Green Belt, the Colne Valley Park, and the Strategic Gap. To put it into context, Doc 7.2 is a plan of local planning and landscape designations; Doc 7.3 the master plan of the site; Doc 7.4 a visual appraisal plan, including photographic viewpoints; Doc 7.5 (and photos 1) a series of photographs of the site and its surroundings from these viewpoints; and Doc 7.6 (and photo 2) an aerial photograph of the site (albeit not recent). (The Council submits additional plans and photos).
47. The application incorporates detailed landscape proposals. One vital element of these is the retention, augmentation and enhancement of the existing tree belts. This would provide an enclosed setting for the building, and screen its main bulk and elevations from outside the site. South of the Poyle Channel would be an open parkland, reinforced with screen planting along Poyle Road and on the south west boundary to screen the waste spoil heaps on the adjacent site.
48. Other aspects of the landscaping strategy (see Mr Denney's proof) include scalloped earth mounds, the retention and framing of views over the river, and retention of important plane trees west of the bridge. A woodland walk would be created west of the bridge. The small parking area would be shoehorned among trees. The planting strategy draws upon the existing woodland species, and concentrates on establishing a climax woodland with associated understorey and ground flora, whilst featuring woodland glades and grasslands.
49. Section 5 of Mr. Denney's proof gives a landscape and visual assessment of the proposals. This includes a section on the landscape character of the surrounding area. This is weak, undistinguished and of generally low quality. The assessment is presented in summary form in Doc 7.7, which includes a series of tables which classify and assess the nature of landscape impacts arising from the data centre, and compare these impacts with those arising from the hotel development. These tables are based on the landscape and visual assessment methodology outlined in Doc 7.8, (and further described in the proof.)
50. In very broad summary, the landscape character of the site would be changed from degraded and fragmented woodland on the urban fringe of Poyle to a commercial building with associated small car park and electricity sub-station within extensive and much improved landscaped grounds.
51. In general, the site is not located in open countryside. Instead, it is strongly influenced visually by the nearby presence of Poyle, the extensive industrial trading estate adjacent, the spoil heaps and fresh gravel mounds on other adjacent sites, and the generally weak and often degraded landscape character of the rest of the surrounding area.
52. Some key visual receptors [Doc 7.7] would be subject to visual impacts. Those subject to moderate residual adverse impacts are all in close proximity to the site. The visual envelope is constrained to the north, east and south. Views to the west, extending only up to 1.5 kms. would be subject to only slight residual visual impacts. No views from any direction would be subject to a significant residual visual impact because of the existing woodland, and the proposed establishment of mitigation planting.

53. Doc 7.7 gives the essential comparisons between the 2 schemes in terms of their visual and landscape impacts. In short, the data centre would be significantly the more beneficial option for the site, and for the Green Belt.
54. Doc 9 provides key data for making a comparison between the schemes. Both would have uniform flat roofs. The data centre, at under 22m. would be slightly lower than the hotel (22.5m.) While the combined footprint of the data centre and sub-station (8977 sq.m) would be greater than that of the hotel (7347 sq.m), the data centre would have very much less associated car parking, and hence hardstandings. Thus, in the hotel scheme, some 44% of the total site area would be built or have hardstandings; the comparable figure for the data centre is only 28%. This figure is significant, because of its implications for the wooded and planted area of the site.
55. Thus the hotel scheme would introduce a large amount of car parking which would entail the loss of much interior and boundary planting. All woodland habitats would also be lost. The lack of width to the proposed boundary planting would also mean a less effective screen to the properties and highway to the east. The 2 tennis courts would mean less boundary screening to the west of the development. The existing pond would also be lost.
56. The data centre would be accommodated within a smaller overall footprint of buildings, car parking and infrastructure. The impact on existing vegetation would be much less than that of the hotel owing to planting incorporating wide boundary woodland planting, especially to the east. The open space and woodland walk to the south (available for public access) would introduce further woodland vegetation. The existing pond would be retained.
57. To summarise, the site is appropriate in landscape terms to accommodate the data centre. It is presently somewhat degraded, and the landscape proposals would restore and improve it. The proposals would not harm the character or quality of the wider landscape setting, which is in the urban fringe and not in the countryside. The majority of important trees would be retained, and their management improved, with many new trees planted. Thus the building would be effectively screened from many external viewpoints; much more so than the hotel.
58. Overall, it would have less visual and landscape impact than the hotel development. Put simply, while in visual terms it might represent only a slight improvement over the hotel scheme, in landscape terms it would represent a very substantial improvement over that scheme.
59. *Other planning issues.* On flood risk, a report by Weeks Consulting was submitted at application stage [Doc 5.1 and Doc 8.8], containing a preliminary flood risk assessment. The Environment Agency has been involved in subsequent discussions and correspondence. At one stage, it objected to the proposals, which are in an indicative floodplain being modelled by the Agency. However, following further correspondence the Agency now has no objection in principle to the scheme. It has however suggested a condition [no 20, Doc 11] to require a further flood risk assessment. The applicants are willing to carry out this work. The Agency has confirmed that it does not expect any further information on flood risk to call into question the principle of development.
60. In any event, the scheme has no implications for flood risk that do not also apply to the hotel scheme.
61. On ecological matters, there are no objections on grounds of nature conservation. A preliminary ecological survey was carried out at application stage. The site is not subject to any nature conservation designations, and there are no significant ecological constraints. Much of the site would remain covered with established trees and other natural vegetation,

and important natural features such as the Poyle Channel and the pond would be retained. Many new trees would be planted [see drawing 010, landscape plan, Plans A]. Part of the site would be primarily devoted to nature conservation, and could be made available for some public access. This is the subject of suggested condition 24 [Doc 11]. Other conditions, such as one [no 19] which prevents any development within 8m. of the Poyle Channel, would also be conducive to the interests of nature conservation.

62. On residential amenity, the data centre building would be located far enough away from the nearest dwelling, Poyle Corner, not to cause any significant loss of daylight. This is shown on application drawing 009B [Plans A]. The building would be separated from this and the neighbouring house, Poyle Lodge, by a densely wooded area. While it would be visible from other dwellings in the immediate locality, none would suffer any loss of residential amenity. In general, and for obvious reasons the low intensity of use of the site compared with the hotel scheme would be beneficial for residential amenity.

The Case for Slough Borough Council (the Local Planning Authority).

The material points are:

63. The Council considered the application in the light of relevant national, structure and local plan policies. Local policies are in the Berkshire Structure Plan 1991-2006 [Doc 8.1], the Spelthorne Borough Local Plan 1991 [Doc 8.3], and the Review of the Local Plan for Slough [Doc 8.2]. The latter has now gone through all the statutory procedures and its adoption is imminent; the precise timing of adoption is merely a matter of straightforward administrative constraints. The Slough plan should carry more weight than the Spelthorne plan, which is very much out of date and has indeed already been replaced in Spelthorne.
64. The application site lies within the Green Belt, the Colne Valley Park, and the Strategic Gap between Slough and London, as shown on various Proposals Maps.
65. The application was considered twice by the Planning Committee [Doc 8.5], and on the latter occasion recommended for delegated approval. Application documents and consultation responses are in Docs 8.6-8.12. Although various matters were raised by consultees, these have all been addressed. Following revisions to the scheme there are no significant objections outstanding.
66. In general, the applicants' case is supported. The Council agrees with them that the most fundamental fact in this case is the existence of an implementable permission for a large hotel, and that the implications of this must be compared with those of the data centre.
67. It should not be forgotten that the hotel is listed as a major commitment (Site 29) in the Spelthorne Borough Local Plan, which technically still remains part of the development plan.
68. Details, including drawings, of the hotel proposal are in Doc 8.14. The hotel permission (Council's ref. SP/91/20) [Doc 8.28] was granted in June 1991, and renewed in 1995. It was for a five storey, 350 bedroom hotel and ancillary facilities, including 481 car parking spaces.
69. Some works, including the vehicular entrance from Poyle Road and piling for the hotel foundations have been started on site [Doc 8.25].
70. It is acknowledged that there can be no absolute certainty that the hotel would be completed if the data centre is not approved. However, given the demand for hotel accommodation in the Heathrow area, there is a very real prospect that it would. In particular, the approval of

Terminal 5 will make a big difference; owing to that, there is far more prospect of implementation of the hotel than there has been hitherto. Thus one should not read too much into the fact that the hotel permission has not yet been fully implemented. It is most unlikely that it would not be taken up by a developer if for any reason the data centre is not approved.

71. *Green Belt and other policy.* The site falls within the Metropolitan Green Belt as defined in the Spelthorne Borough Local Plan 1991 [Doc 8.3] and the deposit draft of the Review of the Local Plan for Slough 1999 [Doc 8.2].
72. PPG 2 sets out Government policy on Green Belts. This says that the fundamental aim of the policy is to prevent urban sprawl by keeping land open, and that the most important attribute of the Green Belt is its openness. The PPG also sets out a general presumption against inappropriate development in the Green Belt except in very special circumstances. As the data centre is not an appropriate form of development in the Green Belt, it would normally be refused as being contrary to Green Belt policy.
73. However, there are certain very special circumstances to take into account. The first is the hotel permission. This is the baseline against which the data centre must be assessed. The data centre would have a similar footprint, height and bulk to those of the hotel, but would have very much less car parking – only 47 spaces, compared with 481 spaces. This means that much more of the site could be landscaped and retained as woodland and other planted areas. Moreover, the data centre would have a much lower intensity of use than the hotel, which would have far more people, vehicles etc. coming and going through the day and night.
74. Secondly, as the site lies within the PSZ for Heathrow, the implications of this for the data centre must be assessed against its implications for the hotel. It should be noted that since Spelthorne Council approved the hotel in the 1990s there has been a change to the shape of the Heathrow PSZ which reflects more accurately where modern aircraft are most likely to crash. As a result, the PSZ has been significantly lengthened and made more narrow (see plan in Doc 7.2). The PSZ now includes much of the application site. When the hotel permission was granted, the site was outside the PSZ.
75. Very simply, there would be far fewer people on site at all times in the case of the data centre (the applicants provide details of numbers) than in the case of the hotel. Thus the data centre application provides a welcome opportunity, through a Section 106 agreement, effectively to extinguish the hotel permission. From the standpoint of the PSZ, this would be highly advantageous. Indeed, this approach is supported by a letter from the former DTLR (Department for Transport, Local Government and the Regions) in 2002 [Doc 8.16]. The Council considers that the Section 106 agreement would act as a necessary guarantee that, in the event of the data centre being approved, the hotel permission would not be taken up. (The Secretary of State should note however that no completed agreement was available by the end of this inquiry. In principle, the Council remains able and willing to sign any such agreement if one is received from the applicants after the inquiry.)
76. Leaving aside very special circumstances in the Green Belt, the site also falls within the Colne Valley Park and the Strategic Gap between Slough and London [Doc 8.2, Plan D]. Broadly speaking, relevant local plan policies (CG1 and CG6 in the Local Plan Review) aim to keep land open and undeveloped in these areas. Were it not for the hotel permission, the data centre would be contrary to these policies. But the same arguments apply in respect of these policies as apply to the Green Belt policies. There is therefore no need to repeat them.

77. On employment policy [Doc 8.2], the site is one of the least accessible locations in the borough because it is physically separated from the main residential area, there is no nearby railway station, and only very limited other public transport. Therefore, for this reason alone it would not be an appropriate location for a major employment use. The data centre, with its low worker count and density, and its very low trip generation, is therefore the most appropriate employment use for this general location.

78. *Visual and landscape impact.* The applicants' evidence on these aspects of the scheme is generally supported. (Mr Kirkham's proof deals with this on behalf of the Council.) In short, the data centre would not cause any greater harm than the hotel scheme to the openness or to the character and appearance of the Green Belt, nor to those of the Colne Valley Park and the Strategic Gap. In fact, it would compare favourably in these respects. This in part is due to negotiations on the originally submitted scheme, which reduced its overall impact.

79. Given the existence of the hotel permission, the overall siting, size, bulk, massing, building style and external appearance of the data centre and associated development are all considered acceptable in this location.

80. The site falls within a defined character type known as Lower River with Open Water, and the sub-section called Wraybury Thames. This is a wide and flat landscape, containing water surfaces, arable fields and settlements. It contains water corridors, lakes and reservoirs of varying sizes. Some areas including the application site are well wooded. However, much of the landscape hereabouts is of weak, despoiled or declining character. On the site itself, many trees have already been lost or are in poor condition.

81. The Council generally supports the applicants' landscape assessments, in respect of both the data centre and the hotel. The data centre has the considerable advantage of having far less hardstandings on site (mainly for parking), and this allows for the retention and planting of more trees to screen the development.

82. At one time, the CAA (Civil Aviation Authority) raised concerns about birdstrikes. These were related to the propensity of certain trees to encourage certain species of birds. This is largely a matter of suitable planning conditions on trees and planting, and there is no outstanding objection on these grounds.

83. *Other planning issues.* One of the call-in matters concerns flood risk. (Mr Kirkham's proof re flood risk etc., paras. 1.1-1.11, summarises its understanding of the issue). In general, the Council is content to be advised by The Environment Agency, as stated in PPG 25, and brings to bear no particular expertise or views of its own.

84. The site falls within the broad floodplain of the Colne Valley, where the Agency has been working on floodplain modelling. A preliminary flood risk assessment by Weeks Consulting was submitted with the application [Doc 8.8]. The Environment Agency has been consulted on the application from the outset, and at first had reservations amounting to an objection on grounds of flood risk.

85. Following further discussion with the applicants, however, The Environment Agency no longer has any objection in principle [Doc 8.7]. The scheme now incorporates an 8m. wide open strip between the Poyle Channel and the data centre, as requested by the Agency. The Agency has requested that further flood risk assessment be carried out, and the applicants have agreed to that. This is the substance of a suggested planning condition [condition 20, Doc 11]. At the inquiry, a representative of the Agency stated that he did not think that the results of this further assessment would call into question the principle of the development.

The Agency has also had some input into other suggested conditions with a bearing on the water environment and nature conservation.

86. The residential amenities of nearby dwellings must also be considered. As revised, and subject to suitable planning conditions, including noise conditions, [Doc 11] the scheme would not cause any significant harm to the residential amenities of any nearby dwellings.
87. Finally, on security matters, the Council accepts that the sensitive nature of the use would preclude most public access from the site. However, an exception could be made for nature conservation groups, and this is the subject of suggested condition no 24.
88. With all the above considerations in mind, the Council respectfully requests the Secretary of State to grant planning permission, subject to a S106 agreement and to the agreed planning conditions.

The case for Mr. M. Rayner.

The material points are:

89. (Inspector's note: Mr Rayner has lived at 3, Riverside Cottages, just outside the application site, for over 40 years). After Poyle Manor was demolished in the 1960s, the site became neglected and began progressively to deteriorate. Various proposals for redevelopment for a hotel came to nothing. Although many trees have been lost, the site has remained a haven for wildlife, and ideally would be retained as some kind of nature reserve. However, given its land value that is probably not realistic; and since the hotel permission could presumably yet be implemented, one must compare the pros and cons of that with the data centre.
90. From the point of view of the local residents, if the site has to be developed the data centre would be preferable. On the credit side, following consultations and negotiations various aspects of its siting and design have been improved. Although it would still be a very large, intrusive and probably rather unattractive building - and obviously inappropriate in the Green Belt - the proposals suggest that the overall intensity of use would be very low compared with the alternative of a large hotel. Thus the data centre is on balance supported, subject to conditions aimed at protecting the local residents' amenities. Finally, its approval and implementation would at least end many years of uncertainty over the site's future.

Written Representations

91. No letters were received in response to the inquiry notification letter. Consultation responses at the application stage are in the SCG [Docs 4 and 5].

Conditions and Obligation

92. The main parties submitted an agreed list of 27 conditions [Doc 11], which were discussed in detail at the inquiry. In numerical order, they concern the following matters: details of parking, loading and unloading space (1); implementation in accordance with the plans (2); restriction on use (3); landscaping (4); protection of existing trees (5); archaeological investigation (6); materials (7); a wheel washing facility (8); fencing etc. (9); means of access (10); management of landscape works (11); ecological investigation (12); external lighting (13); external storage (14); noise attenuation and sound insulation (15, 16, 17); date of commencement (18); restriction of development near Poyle Channel (19); flood risk assessment (20); surface water control (21); landfill gas risk assessment (22); soakaways (23); nature conservation zones (24); construction method statement (25); details of electricity sub-station (26); and restriction on number of employees on site (27).

93. Having considered these suggested conditions in the light of the advice in Circular 11/95, I agree that they would all be necessary, and would all meet the conditions tests in the Circular. If the Secretary of State is minded to allow the application, I recommend that all the agreed conditions be imposed on any planning permission.
94. As mentioned above, and at the instigation of Slough Borough Council, the parties have agreed in principle to submit a planning agreement [Docs 12 and 13]. The effect of this (see esp. para 4.2, Owners Covenants, Doc 12) would be to nullify the previous hotel permission, if permission were granted for the data centre. In my view, however, a completed agreement along these lines is not necessary. If the data centre were to be implemented, the hotel could not physically be implemented, since the two proposals would occupy substantially the same site and footprint. And an agreement is not necessary for the data centre to be acceptable in land use planning terms (Circular 1/97, para. B2). Thus such an agreement would not meet the basic test of necessity in the Circular (para 7). While it remains open to the parties, if they so wish, to complete an agreement, I therefore consider that permission could be granted in this case without the need for one.

Conclusions

95. In the following conclusions, the numbers [in square brackets] refer to source paragraphs and sections in the text. I begin by stating what I think are the main planning issues raised by the application. These embrace, but do not exactly coincide with, the 8 matters raised in the call-in letter. After giving my conclusions on these matters, I go on to state my overall conclusion and recommendation.
96. I consider that the main considerations upon which the decision should be based are as follows: (a) Green Belt policy. Whether the proposals represent appropriate development in the Green Belt, and, if not, whether there are any very special circumstances which would justify the grant of planning permission. In particular, (i) the extent to which a previous planning permission for a hotel is material, and whether the hotel could and would be built if the current application were refused; and (ii), the implications for the Public Safety Zone (PSZ) west of Heathrow airport; (b) the effect of the proposals on the character and appearance of the site and its surroundings, with regard to the Colne Valley Park and the Strategic Gap; (c) whether the proposals would create any unacceptable flood risk; (d) implications for nearby industrial and commercial development.
97. (a) Green Belt Policy, and "Very Special Circumstances". There is no dispute that the proposed data centre represents inappropriate development in the Green Belt, and that this, by definition, would harm the Green Belt. Thus the proposals could only be justified by reference to very special circumstances which would outweigh any such harm (PPG 2). In the absence of any such circumstances, they would be contrary to Green Belt policy in PPG 2, and in the structure and local plans [39, 72].
98. The parties rely on the fact and circumstances of the existence of an extant planning permission for a hotel, which they say both could, and would, be implemented if the data centre were refused permission. They argue that the data centre would be less harmful to the openness of the Green Belt (and also the Colne Valley Park and Strategic Gap) than the hotel; and, secondly, that the data centre carries far less of a risk to public safety than the alternative of a large hotel, and therefore is very much to be preferred as a land use in the PSZ [4, 19-20, 34-37, 66].
99. I note that it is not entirely clear whether the hotel permission is itself put forward as a "very special circumstance", in the sense of PPG 2, or whether its implications (arising from a comparison of the 2 schemes' planning merits) amount to very special circumstances. Both positions were argued at the inquiry at different times. But the point is somewhat academic, as the permission and the inferences from it are closely bound up together, and should not obscure the planning judgement to be made.
100. On the previous planning permission, there is no evidence to contradict the parties' case that the 1991 and 1995 permissions were implemented, in part, in 1999, before the latter permission lapsed. (In reality, the physical works done were fairly minor in nature, and seem to have been just sufficient to "keep the permission alive"). These permissions have never been revoked; indeed, they were the basis for the site being shown as a Major Commitment in the Spelthorne Borough Local Plan. Nor has any completion notice been served. Thus in my understanding they could, lawfully, be implemented to completion at any time [19-20, 34-37, 66, 68-69].
101. But would the hotel permission be implemented? The parties agree that this is a relevant question to ask. The inquiry heard no evidence that a named hotel operator or developer is currently interested in acquiring the site and completing the hotel development. And it is

certainly the case that permissions for hotel development on the site have been in existence for many years, but have never been (fully) implemented. The main parties were not able to explain to the inquiry why this has been the case. I can only assume that Gulf Air, who have not made representations to this inquiry, were content to wait for the most propitious market circumstances before building the hotel. In the event, this of course has not occurred, and Gulf Air are now disposing of the site for another use.

102. The applicants, however, rely on more generalised arguments which, they say, strongly indicate that the permission would be implemented, if not immediately, at least in the foreseeable future. These are mainly that Terminal 5 has now been approved, and can only increase the demand for more hotel bedspaces in the general area of Heathrow. Responding to my questions, the Council was particularly supportive upon this point. And the application site would be convenient for Terminal 5, when it is built [38, 70].
103. From the evidence to the inquiry, I cannot say for sure that the hotel would be built if the data centre application were to be refused. Even less can I say when this might happen. However, I consider that hotel permission remains extant, and both could and probably would be implemented. Thus I agree with the main parties that the hotel permission is a very significant material consideration in the current application. As the applicants maintain, it represents their “fall-back position”. It follows that the scenario with which the data centre must be compared is not a “no-development” scenario, but one which assumes the development of the hotel. In short, the implications and impact of the proposed data centre should be compared with those of the hotel.
104. Turning to another very special circumstance, there is no dispute that much of the application site, including the data centre building, falls squarely within the PSZ as defined in the Slough Borough Local Plan. It is also common ground that the data centre would have about 40 employees, and a variable, but generally much smaller number of daily visitors, tradesmen etc. The hotel, however, would normally expect to have far larger numbers of people on site – guests, other visitors, staff, tradesmen etc [5, 31].
105. Neither use would ideally be located in the PSZ, although it is debatable whether the data centre, with its 40 employees, actually falls foul of the advice in DfT Circular 2/2002. (This is because the Circular does not define precisely what is meant by “significant” numbers of people, except by example). Certainly, the hotel use would be contrary to this advice, although it should be remembered that when it was approved the site was not within the PSZ. In short, there can be no question that, in terms of the PSZ, the data centre represents a much lower risk to public safety (in the unlikely event of an air accident) than the hotel [42-45, 74-75].
106. In my opinion, both of the aforementioned factors amount to very special circumstances which weigh in favour of the data centre being approved.
107. However, should the Secretary of State take the view that the hotel permission is not particularly material to the decision, it follows that there would be no very special circumstances in favour of the data centre, and that permission should be refused on the basis of Green Belt and other policies.
108. (b) Character and appearance of the site and its surroundings. On this, I can be quite brief, although there is much submitted landscape and visual impact evidence. The main parties agree about the nature and level of impact of the data centre on the site, its surroundings, the Green Belt, the Colne Valley Park and the Strategic Gap, and on how these compare with those of the hotel. I, too, agree in general with their assessments [46-58, 78-81].

109. These are, in summary, that while the data centre would be a very substantial building which would undermine the openness of the Green Belt and would be visible from many external viewpoints, it would be less harmful than the hotel. This is largely because a smaller proportion of the site would be built-up or contain hardstandings, and this would create greater opportunities for the retention of existing trees and the creation of new planted areas.
110. It is also certainly the case that the data centre would be a considerably less intensive use of the site than a large hotel. Day to day activity on it would be at a relatively low and unobtrusive level, and there would be relatively few comings and goings by employees and visitors.
111. Although Mr Rayner suggested that the data centre would be unattractive as a building, I do not consider that it would compare unfavourably with the hotel scheme. And while its function might not be very apparent to the casual observer, its external appearance would not be unlike those of other modern commercial buildings seen in business parks etc. In any event, its design and external appearance are both open to varying subjective judgements. In my own judgement, the data centre would appear as a large, well-designed contemporary building set amongst trees, and in well-landscaped grounds. The electricity sub-station would be relatively small in scale, and unobtrusive [90].
112. In this context, it is also relevant to note that the site is not in open countryside, but is strongly influenced by the proximity of a large industrial estate, a distributor road, and adjacent land uses which include a concrete recycling centre and gravel workings. These uses are both inside and outside the Green Belt. This is already a somewhat developed and despoiled urban fringe location, and while this factor does not by itself justify inappropriate development in the Green Belt, the proposals should be seen in that site context [8-12, 50-51, 57].
113. (c) Flood risk. There is some background documentation on this issue. Both parties appear content to abide by the advice of The Environment Agency, which itself has the advice in PPG 25 very much in mind. While the Agency had objections to the proposals at an early stage, it subsequently had detailed discussions which culminated in design revisions to the scheme, and the withdrawal of its objections. It has however suggested that further flood risk assessment be done by the applicants, and suggested condition No 20 would require that. At the inquiry, the Agency's representative confirmed that further work would not be likely to call into question the principle of the scheme. I conclude from this that there are no overriding objections to it on grounds of flood risk. I would also note that the data centre carries no implications for flood risk that are not also present in the case of the hotel scheme [59-60, 83-85].
114. (d) Implications for nearby industrial and commercial development. This issue relates to matter v) in the call-in letter. However, it is not one which features very much, if at all, in the parties' evidence. The data centre would be detached and separate from any nearby land uses, and would not have any particular physical or functional connection or relationship with the industrial and commercial uses on the nearby Poyle Trading Estate or on adjoining land. There is no evidence that the data centre's impact on these uses (if any) would be either positive or negative. The traffic generated by the use is not a call-in matter, nor is it in my view a significant planning issue, as it would be too small to have any harmful effect on the local road network. The building itself would be too far away from other commercial buildings to have any direct physical impact. Otherwise, I am unable to draw any clear conclusions on this matter.

115. There are no other matters which I would wish to draw to the Secretary of State's attention.
116. Overall Conclusions. There are very special circumstances which justify approval of the data centre, which is an otherwise inappropriate use in the Green Belt, and contrary to normal Green Belt policies. It would also harm the openness of the Colne Valley Park and the Strategic Gap, also contrary to relevant policies. In particular, the proposal must be assessed in the context of the site's realistic, alternative use for a large hotel. On various planning grounds, including the implications for the Heathrow Airport Public Safety Zone, the data centre would be preferable to the hotel. On that basis, conditional planning permission could now be granted.
117. Recommendation. I recommend that the application be approved, and that conditional planning permission be granted.

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Stimpson BSc DipTP MRTPI	Head of Planning Policy and Projects (also acting as advocate)
Mr R Kirkham DipTP MRTPI	Team Leader, development control

FOR THE APPLICANTS:

Mr R Bull, partner, Eversheds	115 Colmore Row, Birmingham, B1 3AL
He called	
Mr S Chadwick BSc FRICS	RPS
Mr B Denney BA MLI	RPS

INTERESTED PERSONS:

Mr M Rayner	(Local resident), 3 Riverside Bungalows, Poyle Park, Colnbrook, Slough SL3 OJD
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DOCUMENTS

Doc 1	Lists of persons present at the inquiry (6-7 January 2004)
Doc 2	Letter of notification of the inquiry
Doc 3	Letters in response to Doc 2
Doc 4	Statement of Common Ground (SCG), with amendments made during inquiry
Doc 5.1-11	11 appendices to SCG
Doc 6.1-4	4 appendices to Mr Chadwick's proof of evidence (for the applicants)
Doc 7.1-8	8 appendices to Mr Denney's proof of evidence (for the applicants)
Doc 8.1-31	31 appendices to the Council's proofs of evidence
Doc 9	Revised agreed comparative floorspace table (data centre and hotel)
Doc 10	List of existing and proposed hotels in Slough, put in by Mr Stimpson
Doc 11	List of 27 agreed planning conditions, as revised during the inquiry
Doc 12	Draft S106 agreement, submitted at close of inquiry
Doc 13	Letter from Eversheds dated 22/1/04, re S106 agreement

PLANS

Plans A	The application plans, listed in report (in SCG appendices, Doc 5.1)
Plan B	Site location plan (in SCG appendices, Doc 5.3)
Plans C	Permitted hotel drawings (in SCG appendices, Doc 5.6)
Plan D	Extent of Strategic Gap (designated in local plans) [other maps and plans appear among the documents]

PHOTOGRAPHS

Photo 1	10 photographs of the site and its surroundings (Mr Denney's App 5, also Doc 7.5)
Photo 2	Aerial photograph of site and surroundings (Mr Denney's App 6, also Doc 7.6)