



Department for  
Communities and  
Local Government

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Our Ref: APP/J0350/A/12/2171967  
Your Ref: 16347/A3

12 July 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY GOODMAN LOGISTICS DEVELOPMENT (UK) LTD  
LAND NORTH OF A4 (COLNBROOK BYPASS), COLNBROOK, SLOUGH SL3 0FE  
APPLICATION: REF P/14961/000**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Diane Lewis BA (Hons), MCD, MA, LL.M, MRTPI, who opened a public local inquiry on 8 September 2015 into your client's appeal against a decision by Slough Borough Council (the Council) to refuse outline planning permission for the construction of a rail/road freight interchange comprising an intermodal terminal and Class B8 distribution units on land north of A4 (Colnbrook Bypass), Colnbrook, Slough in accordance with application Ref P/14961/000 dated 27 September 2010.

2. On 14 March 2012, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990. This was because the appeal concerns a proposal for development of major importance having more than local significance and because it is for significant development within the Green Belt.

**Inspector's recommendation and summary of the decision**

4. The Inspector recommended that the appeal be dismissed and planning permission refused.

5. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with her recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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## **Procedural Matters**

6. In reaching this position, the Secretary of State has taken into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the environmental information submitted before the inquiry opened. Overall, the Secretary of State is satisfied that the ES complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

7. The Secretary of State has noted the content of your letter and enclosures of 27 January 2016 about the Department for Transport's planning decision of 12 January 2016 relating to the Strategic Rail Freight Interchange (SRFI) known as the East Midlands Gateway. However, the Secretary of State does not consider that the information provided raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.

## **Policy and statutory considerations**

8. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

9. In this case, the relevant parts of the development plan comprises the Slough Core Strategy 2006-2026 (CS), adopted December 2008, the Slough Site Allocations Development Plan Document (SSA), adopted November 2010 and the saved policies of the Local Plan for Slough (LPfS) adopted March 2004. The Secretary of State considers that the development plan policies most relevant to this case are those referred to by the Inspector at IR5.2 - 5.12. He is satisfied that these policies are generally consistent with the Framework.

10. Other material considerations which the Secretary of State has taken into account include: the Framework; the Guidance; the Community Infrastructure Levy (CIL) Regulations; and The London Plan 2011 (consolidated with alterations since 2011), adopted in March 2015, including Policies 6.14 and 6.15.

11. The Secretary of State has also taken account of the Department for Transport's Strategic Rail Freight Interchange Policy Guidance and its Logistics Growth Review Document (both published in November 2011); the joint Written Ministerial Statement on Strategic Rail Freight Interchanges issued by the Secretary of State for Transport and the Secretary of State for Communities and Local Government on 29 November 2011; and the National Policy Statement for National Networks (published in January 2015).

## **Main issues**

12. The Secretary of State agrees with the Inspector that the main issues in this case are those set out by the Inspector at IR12.2 and whether the proposal complies with the development plan and with national policy.

### **Green Belt**

13. The Secretary of State agrees with the Inspector's comments at IR12.8, and like the Inspector, concludes that the appeal proposal would be inappropriate development in the Green Belt and that it is harmful as such. As the proposal amounts to inappropriate

development he considers that, in the absence of very special circumstances, it would conflict with national policies and with the CS. Like the Inspector, the Secretary of State considers that the NPS does not change the policy test for SRFI applications in the Green Belt or the substantial weight to be attached to the harm to the Green Belt (IR12.8). For the reasons given by the Inspector at IR12.9 – 12.11, the Secretary of State agrees with the Inspector's conclusion (IR12.12) that the proposed development would result in a severe loss of openness.

14. The Secretary of State agrees with the Inspector that the introduction of major development on the site, even if enclosed within well-defined boundaries, would not assist in checking sprawl and hence would conflict with a purpose of the Green Belt (IR12.13). For the reasons given by the Inspector at IR12.14, the Secretary of State agrees that the proposal would not be compatible with the purpose of preventing neighbouring towns merging into one another. The Secretary of State accepts the Inspector's conclusion that the proposed development would encroach into the countryside. He agrees too that this conflict is not overcome by the proposed creation of new habitats and other aspects of mitigation in existing countryside areas (12.15). The Secretary of State agrees with the Inspector's overall conclusion that these conflicts should be afforded substantial weight (IR12.18). The Inspector acknowledges that the proposed SRFI development's location in the Green Belt may well be an optimum solution in relation to existing patterns of distribution activity, but like the Inspector, the Secretary of State concludes that this does not reduce the actual harm that would occur (IR12.19).

#### Strategic Gap

15. For the reasons given by the Inspector at IR12.20 – 12.27, the Secretary of State agrees with her conclusion that the development would be a dominant group of large scale buildings and infrastructure that would generate a large volume of traffic and activity. The Secretary of State concurs with the Inspector's view that even with a high quality landscape scheme, its presence would cause irreparable harm to the Strategic Gap. He agrees too that the scheme conflicts with Policy CG9 of the LPfS which states that development which threatens the role of open land within the strategic Green Belt gap should not be permitted (IR12.28).

#### Colne Valley Park

16. The Secretary of State has carefully considered the Inspector's reasoning at IR 12.29 – 12.37. Like the Inspector, the Secretary of State agrees that the Landscape and Green Infrastructure Strategy (LGIS) would be likely to deliver a high quality landscape scheme and improvements to the public rights of way network. Physical movement through the Park in this area probably would be improved and proposals comply with Policy T7 of the LPfS. Taking a wider perspective, he agrees that the objectives for the Park would be supported by a proportionate financial contribution towards the improvement of access by pedestrians, cyclists and equestrians, habitat enhancement and other initiatives. Furthermore, habitat improvement, creation and management would conserve the nature conservation resources of the Park in compliance with criterion (d) of Policy CG1.

17. On the negative side there would be localised harm to the landscape and amenity of Colne Valley Park, principally through the adverse change in the character and use of the site. The loss of the intangible countryside feel and associated amenity could not be adequately replaced. The development would detract from users' enjoyment of the rights

of way (LPfS Policy CG2) and there is uncertainty over delivery and timescale of potential off-site enhancements. Overall the scheme would not be consistent with the purpose of the Colne Valley Park. As a result of the harm to the scenic and amenity value the proposal is not supported by Policy CG1 of the LPfS. This conclusion adds moderate weight against the proposal.

#### Landscape character and visual effect

18. For the reasons given by the Inspector at IR12.41 – 12.47, the Secretary of State accepts the Inspector's conclusion that although the SRFI would be a large scale commercial operation, in the broad landscape context, the impact would be negligible. However, at local level the harm would be more significant and he agrees that overall, the harm to landscape character has a small amount of weight. The Secretary of State accepts the Inspector's conclusion that the effects on visual amenity would be most acutely experienced by those living in the area as they travel to and from home or when viewing the landscape in leisure time. The Secretary of State gives the visual harm modest weight. He agrees with the Inspector that there is a degree of conflict with Core Policy 9 (IR12.48).

#### Highways and Traffic

19. The Secretary of State has carefully considered the Inspector's analysis of highways and traffic issues and for the reasons given at IR12.49 – 12.56, he agrees with the Inspector that improvements can be undertaken within the transport network that would effectively limit the significant impacts of the development. He agrees too that safe and suitable access to the site is able to be achieved for all people. The necessary transportation infrastructure would be delivered, as required by Core Policy 9 (IR12.57).

#### Air quality

20. For the reasons given by the inspector at IR 12.58 – 12.63, the Secretary of State accepts his conclusion that the proposed development with appropriate mitigation would comply with Core Policy 8. He agrees too that the slight adverse effect on air quality has limited weight (IR12.64).

#### Biodiversity

21. The Secretary of State has carefully considered the Inspector's reasoning at IR 12.65 – 12.75 and accepts his conclusion that the proposal offers opportunities to conserve and enhance biodiversity, primarily through the LGIS. With reference to the principles in paragraph 118 of the Framework and the LGIS as a whole, the Secretary of State agrees that the effect on biodiversity is acceptable on the basis that the proposed mitigation is secured (IR12. 76).

#### Flood risk and water resources

22. The Secretary of State accepts the Inspector's conclusion at IR12.82 that the Flood Risk Assessment demonstrates that the development, incorporating the proposed mitigation measures, would not increase flood risk.

### Local communities and cumulative impact

23. The Secretary of State notes that the cumulative impact of the proposed development with other schemes in the area was assessed using the best available information for the purposes of the 2015 ES Addendum. In addition, the potential highways impact of the proposed relocation of the Heathrow Express Depot to Langley was considered. The Appellant and SBC agree that WRATH and the relocation of the Depot to Langley are unlikely to have a significant effect during construction and operation (IR12.84). However the Inspector notes that there is a degree of uncertainty, and a safeguard has been introduced into the section 106 agreement. There is an acknowledgment that base traffic flows on the A4 at Brands Hill may increase over and above the predicted growth due to the implementation of other schemes. If junctions are shown to be operating at or over capacity through additional traffic surveys and modelling work, provision is made for mitigation measures to be included in the CEMP. The Secretary of State agrees that this planning obligation is a necessary and reasonable response (IR 12.85).

### Other considerations

#### Need

24. The Secretary of State has carefully considered the Inspector's reasoning about need at IR12.88 - 12.103 and accepts the Inspector's conclusion that the current policy need for a regional network has not been overcome by the SRFI at Radlett and SIFE is able to be regarded as a complementary facility as part of a wider network (IR12.104).

25. With regard to the Inspector's analysis of other developments and sites at IR 12.105 – 12.106, the Secretary of State agrees that the NPS makes clear that perpetuating the status quo, which means relying on existing operational rail freight interchanges, is not a viable option.

26. The Secretary of State agrees with the Inspector that there is a reasonable probability that Radlett will be operational in 2018 and there is the prospect of Howbury Park being progressed to implementation. In addition, rail connected warehousing is under development in Barking. On the downside, the geographical spread is uneven. There is a noticeable gap in provision on the west side of London, with Radlett being complementary to rather than an alternative to SIFE. SIFE would contribute to the development of a network of SRFI in London and the South East and a wider national network in accordance with the policy objective of the NPS (IR12.107).

### Transport links and location requirements

27. The Secretary of State has considered carefully the Inspector's analysis at IR 12.108 – 12.136 and agrees with his conclusion that SIFE would have the transport links and location attributes to fulfil the NPS requirements to a very good standard.

### Transfer from road to rail

28. The Secretary of State notes that Slough Borough Council, as well as others including Colnbrook with Poyle Parish Council and RPRA, are concerned that the warehousing units provided as part of the development would be occupied by companies primarily interested in road to road transport of goods. He has carefully considered the Inspector's analysis of this matter at IR 12.138 – 12.147. For the reasons given by the

Inspector, the Secretary of State agrees that the risk of not attaining a high level of rail use would be low (IR 12.148).

#### Carbon emissions

29. For the reasons given by the Inspector at R 12.149 – 12.150, the Secretary of State agrees that the reduction in carbon emissions as a result of SIFE facilitating the movement of freight by rail is a positive factor and affords it moderate weight.

#### Economy and jobs

30. The Secretary of State agrees with the Inspector that the beneficial economic aspects of the development would be felt in the area both during construction and operation (IR12.151) and would thereby promote national policy objectives to secure economic growth (IR12.152). He gives this matter moderate weight.

#### Alternative sites

31. For the reasons given by the Inspector at IR 12.153 – 12.156, the Secretary of State agrees that there is no identified alternative site to SIFE, in the sense of being capable of fulfilling the same purpose, serving the same markets and being geographically comparable in order to achieve the desired spread of SRFIs round Greater London. Like the Inspector (IR12.156) the Secretary of State gives this matter considerable weight in favour of the proposal.

#### Use of Green Belt land and LGIS

32. The Secretary of State notes that the NPS, whilst acknowledging promoters may find the only viable sites are on Green Belt land, draws attention to the special protection given to Green Belt land. Like the Inspector, he attaches no weight to 'the development being essential on Green Belt land' (IR 12.157) being a matter that he has considered in relation to need and alternative sites in the above paragraphs numbered 24-26 and 31.

33. Turning to the LGIS which aims to mitigate harm caused by the development to landscape character, amenity, public rights of way, biodiversity and to ensure a high standard of design as required by national and development plan policy, the Secretary of State accepts the Inspector's view that as a consequence of these aims, no positive weight is warranted (IR 12.158).

#### Other matters

34. For the reasons given by the Inspector at IR12.159 – 12.160, the Secretary of State agrees that given the current position and uncertainty over whether or not a new north runway at Heathrow will be progressed, no weight should be given to this matter in the Green Belt balancing exercise (IR12.161).

35. The Secretary of State agrees with the Inspector (IR 12.162) that there may be a problem with site assembly, but the ability to deliver SIFE is a neutral matter that counts neither for nor against the development.

#### **Planning conditions**

36. The Secretary of State has given consideration to the Inspector's analysis at IR (IR12.163 – 12.178), the recommended conditions set out at appendix 1 of the Inspector's Report and the reasons for them, and to national policy in paragraph 206 of

the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal.

### **Planning obligations**

37. Having had regard to the inspector's analysis at IR12.179 – 12.186, paragraphs 203 – 205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given at IR12.180 that all the planning obligations are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The obligations comply with the statutory tests in Regulation 122 and with the policy tests in paragraph 204 of the Framework. However, the Secretary of State does not consider that the obligations overcome his reasons for deciding that the appeal should be dismissed.

### **Planning balance and overall conclusion**

38. The Secretary of State has given very careful consideration to the Inspector's concluding remarks at IR12.187 – 12.206.

39. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out in this letter, the Secretary of State concludes that the proposal is inappropriate development and by definition harmful to the Green Belt. He found that the development is contrary to Core Policy 1 of the CS and national policy in the Framework. The Secretary of State finds that the totality of the harm to the Green Belt has very substantial weight. In addition, he finds that the damage to the Strategic Gap would be irreparable, which adds significant weight against the proposal. In addition he has found that there is localised harm to Colne Valley Park to which he adds moderate weight against the proposal. He gives limited weight to the slight adverse impact on air quality, and a small degree of weight to the harmful social effect and erosion of quality of life of local communities. He affords, subject to conditions, no weight to potential harms to biodiversity, water quality or through flood risk. The Secretary of State has then gone on to consider whether there are any material considerations justifying determining the case other than in accordance with the development plan.

40. The Secretary of State accepts that the most important benefit of the proposal is the potential contribution to building up a network of SRFIs in the London and South East region, reducing the unmet need and delivering national policy objectives. In addition, there is the prospect of SIFE being complementary to Radlett and other smaller SRFI developments and improving the geographical spread of these facilities round Greater London. In this context, the Secretary of State accepts that the contribution it would make to meeting unmet need is considerable.

41. He accepts too that SIFE would comply with the transport and location requirements for SRFIs to an overall very good standard. He acknowledges that sites suitable for SRFIs are scarce and the difficulty in finding sites in the London and South East region. On account of this factor, and the standard of compliance achieved, he affords meeting the site selection criteria significant weight. No less harmful alternative site has been

identified in the West London market area, a factor which he affords considerable weight. Attracting less but nevertheless moderate weight are the economic benefits, the reduction in carbon emissions and improvements.

42. In common with the Inspector in her conclusion, the Secretary of State has been persuaded by the irreparable harm that would be caused to this very sensitive part of the Green Belt in the Colnbrook area, leading to the high level of weight he attaches to this consideration. Overall, the Secretary of State concludes that the benefits of the scheme do not clearly overcome the harm. Consequently very special circumstances do not exist to justify the development. Furthermore, he finds that planning conditions would not be able to overcome the fundamental harms caused to the Green Belt, Strategic Gap and Colne Valley Park and the open environment enjoyed by the local community. In addition, he has concluded that the proposal does not have the support of the NPS because very special circumstances have not been demonstrated.

### **Formal Decision**

43. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses to grant outline planning permission for the construction of a rail/road freight interchange comprising an intermodal terminal and Class B8 distribution units on land north of A4 (Colnbrook Bypass), Colnbrook, Slough in accordance with application Ref P/14961/000 dated 27 September 2010.

### **Right to challenge the decision**

44. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

45. A copy of this letter has been sent to St Albans City and District Council. A letter of notification has also been sent to all other parties who asked to be informed of the decision.

*Phil Barber*

**Phil Barber**

Authorised by the Secretary of State to sign in that behalf



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# Report to the Secretary of State for Communities and Local Government

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 26 January 2016

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**TOWN AND COUNTRY PLANNING ACT 1990**

**SLOUGH BOROUGH COUNCIL**

**APPEAL BY**

**GOODMAN LOGISTICS DEVELOPMENT (UK) LTD**

**SLOUGH INTERNATIONAL FREIGHT EXCHANGE (SIFE)**

Inquiry opened on 8 September 2015

Land north of A4 (Colnbrook Bypass), Colnbrook, Sough SL3 0FE

File Ref: APP/J0350/A/12/2171967

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## CONTENTS

	Page no.
Introduction and Procedural Matters	3
Appeal Site and Surroundings	5
Proposed Development	6
Planning History and Development Proposals	9
Planning Policy	11
Areas of Agreement	14
The Case for the Appellant	22
The Case for Slough Borough Council	46
The Case for Helioslough Ltd	62
The Case for Interested Parties	64
Written Representations	73
Planning Conditions and Planning Obligations	75
Inspector's Conclusions	82
Recommendations	120
Appendix 1: Schedule of Planning Conditions	121
Appendix 2: Appearances	130
Appendix 3: Documents List	131

## ABBREVIATIONS

AQMA	Air Quality Management Area
BREEAM	Building Research Establishment Environmental Assessment Methodology
CCA	Colnbrook Community Association
CD	Core Document
CEMP	Construction Environmental Management Plan
CIC	Community Interest Company
CIL	Community Infrastructure Levy
CO <sub>2</sub>	Carbon dioxide
CS	Core Strategy
DfT	Department for Transport
DIRFT	Daventry International Rail Freight Terminal
EIA	Environmental Impact Assessment
ES	Environmental Statement
FRA	Flood risk assessment
GEA	Gross external area
GPDO	The Town and Country Planning (General Permitted Development) (England) Order 2015
GWML	Great Western Main Line railway
ha	hectare
HGV	Heavy goods vehicle
KIG	Kent International Gateway proposal
km	kilometre
LGIS	The Landscape and Green Infrastructure Strategy
LIFE	London International Freight Exchange
LPFS	Local Plan for Slough
m	metre
NDC	National distribution centre
NO <sub>2</sub>	Nitrogen dioxide
NPS	National Policy Statement for National Networks
PM <sub>10</sub>	Particulate matter
RDC	Regional distribution centre
RPRA	Richings Park Residents' Association
RUS	Route utilisation strategy
SBC	Slough Borough Council
SFN	Strategic Freight Network
SIFE	Slough International Freight Exchange
SPA	Special Protection Area
SPG	Supplementary Planning Guidance
SRA	Strategic Rail Authority
SRFI	Strategic Rail Freight Interchange
SSA	Slough Site Allocations Development Plan Document
SSSI	Site of Special Scientific Interest
SuDS	Sustainable drainage system
the Framework	National Planning Policy Framework
TfL	Transport for London
WRATH	Western Rail Access to Heathrow

**File Ref: APP/J0350/A/12/2171967**

**Land north of A4 (Colnbrook Bypass), Colnbrook, Sough SL3 0FE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Goodman Logistics Development (UK) Ltd against the decision of Slough Borough Council.
- The application Ref P/14961/000, dated 27 September 2010, was refused by notice dated 8 September 2011.
- The development proposed is construction of a rail/road freight interchange comprising an intermodal terminal and Class B8 distribution units, to include:
  - Infrastructure to enable the exchange of freight between road and rail, including railway sidings with a connection to the Colnbrook Branch Line and an intermodal terminal incorporating two overhead gantry cranes and external container storage;
  - Class B8 distribution units up to 194,836 sq m floor space, to include associated landscaping, access, parking and servicing areas;
  - Lorry parking area including facilities for drivers;
  - Two vehicular accesses on the A4 Colnbrook Bypass and off-site junction improvements at M4 Junction 5, A4 junction with Sutton Lane, A4 junction with Stanwell Moor Road, A3044 junction with Airport Way and M25 Junction 14;
  - Creation of new public rights of way, improvement works to existing public rights of way and diversions of existing public rights of way;
  - Engineering operations to remodel ground levels;
  - New landscaping including woodland and shrub planting, grassland areas and wetland creation and new broadwalk adjacent to Old Slade Lake.

**Summary of Recommendation: That the appeal be dismissed.**

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## **1. INTRODUCTION AND PROCEDURAL MATTERS**

- 1.1 The appeal was recovered by the Secretary of State for his decision by a Direction dated 14 March 2012. The reason for the Direction is that the appeal involves proposals for development of major importance having more than local significance and proposals for significant development in the Green Belt.
- 1.2 The Inquiry, which was due to open on 9 October 2012, was postponed because it was considered that the Secretary of State's decision on a proposed strategic rail freight interchange (SRFI) at Radlett Aerodrome may have significant implications for the Colnbrook Inquiry and the Colnbrook Inquiry would not be able to proceed efficiently if it started as planned. The appeal was placed in abeyance.
- 1.3 On 14 July 2014 the Secretary of State allowed the appeal for a proposed SRFI at Radlett. A new timetable was prepared in order that the Colnbrook appeal for the proposed Slough International Freight Exchange (SIFE) could be progressed to Inquiry. The documentation was updated, which included the submission of an Addendum to the Environmental Statement (ES) in April 2015. A Pre-Inquiry meeting was held on 20 July 2015 to discuss procedural matters, the scope of the evidence and likely programme.
- 1.4 Requests were made for the Inquiry to be postponed by Heathrow Airport Limited, Colnbrook with Poyle Parish Council, South Bucks District Council, Colnbrook Community Association and the Stop SIFE campaign. The request followed the final report and conclusion by the Airports Commission that the

strongest case for delivering new airport capacity was the proposed new North West Runway at Heathrow Airport in combination with a significant package of measures to address its environmental and community impacts. This option, if taken forward, would require the utilisation of most of the appeal site. The requests for a postponement were not agreed and all parties were duly informed in writing that the Inquiry would open as programmed.

- 1.5 The Inquiry opened on 8 September 2015 and sat for 10 days over a three week period at The Centre, Farnham Road, Slough. The Inquiry was closed in writing after receipt of a certified copy of the signed section 106 agreement on 21 October. The accompanied site visit took place on 21 September. In addition I familiarised myself with the site and the surrounding area on a number of unaccompanied visits.
- 1.6 Early on in the appeal proceedings Helioslough Ltd, the promoters of the proposed SRFI at Radlett, was granted Rule 6(6) status. By July 2015 circumstances had changed significantly in that the planning permission granted by the Secretary of State on 14 July 2014 for the Radlett SRFI was free from any legal challenge. In a statement of common ground between the Appellant and Helioslough dated 10 August 2015 the Appellant confirmed that it would not form any part of its case to argue that SIFE is in any material respect preferable to Radlett<sup>1</sup>. Apart from a brief statement at the start of the Inquiry to confirm its position, Helioslough's involvement in the Inquiry proceedings was confined to observation. A written statement on planning policy and a response on matters specific to Radlett were submitted on Helioslough's behalf.<sup>2</sup>
- 1.7 Colnbrook Community Association requested the Appellant should meet the full costs of attending the Inquiry incurred by community groups and Slough Borough Council (SBC) on the basis that the Appellant insisted on the Inquiry going ahead despite the pending Heathrow decision. I explained that the Appellant was pursuing its statutory rights of appeal and was not responsible for the Inquiry proceeding as arranged. No applications for costs were formally made.
- 1.8 The planning application was refused for seven reasons. Subsequently SBC confirmed its objection in relation to air quality (reason 7) was overcome as a result of further assessment and modelling work by the Appellant and the submission of an Addendum to the ES. SBC was satisfied that the holding objection in reason 6 was addressed through a section 106 agreement and a schedule of planning conditions.
- 1.9 The Appellant and SBC very helpfully submitted a series of updated statements of common ground<sup>3</sup>. The planning statement of common ground has informed much of the factual content in the opening sections of this report on the appeal site and the surrounding area, the proposed development, relevant planning history, development proposals in the area and the planning policy context. The main points of agreement between the Appellant and SBC are set out in relation to planning, rail access and infrastructure, highways and air quality before

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<sup>1</sup> Core Document 7.9 (CD7.9)

<sup>2</sup> HS/01 and HS/IQ/1

<sup>3</sup> CD7.2-CD7.4, CD7.6, CD7.7. The Appellant also has submitted a statement of common ground with Network Rail CD7.8.

reporting the gist of the cases presented on behalf of the Appellant, SBC, Helioslough and interested parties. Written representations are summarised and reference made to the proposed planning conditions and the content of the section 106 agreement. My conclusions and recommendations follow. A schedule of planning conditions, Inquiry appearances and list of documents form Appendices 1 to 3. Footnotes provide references to documents, points of information and clarification.

## **2. THE SITE AND SURROUNDINGS**

- 2.1 The appeal site (the site) is an area of some 58.7 hectares (ha) located to the south east of Slough and north of the settlements of Colnbrook and Poyle<sup>4</sup>. The land lies between the M4 motorway to the north and the A4 Colnbrook Bypass to the south. The M25 motorway is some 500 metres (m) to the east. The residential area of Richings Park and the Great Western Main Line railway (GWML) are located on the far side of the M4, in South Buckinghamshire District. The major development nearby is London Heathrow Airport.
- 2.2 Gravel extraction took place on the site from around the 1950s through to the 1970s. Following the extraction of the minerals the workings were used for landfill operations during the 1970s and 1980s, with subsequent restoration to pasture in the late 1990s<sup>5</sup>. The land now forms a broad low mound rising towards the centre and is used for horse grazing. A strip of land within the site boundary runs parallel to and along the south side of the M4 motorway and takes in the northern bank of Old Slade Lake to eventually link with the Colnbrook Branch Line. This railway is a single track freight line joining the GWML at West Drayton junction. Public rights of way cross the site and the Colne Valley Trail follows the east/south eastern boundary near to Colne Brook.
- 2.3 The site is in the freehold ownership of the Appellant with the exception of a 3 ha area in the central part owned by SBC and two small land parcels adjacent to the M4 in the freehold ownership of the Secretary of State for Transport. The Appellant also owns land adjacent to the application site, which includes land north of the A4 west of Horton Brook, Old Wood and two lakes known as Old Slade Lake and Colnbrook West. Outside the area of ownership, Colnbrook Landfill site operated by Biffa lies to the west and Iwer sewage treatment works is located to the south of the M4.
- 2.4 The Assessment Site for the purposes of the Environmental Impact Assessment (EIA) comprises the site, adjacent lands in the Appellant's ownership and off-site railway land<sup>6</sup>.
- 2.5 The site is located in the Metropolitan Green Belt and the Colne Valley Park<sup>7</sup>.
- 2.6 The South West London Water Bodies Special Protection Area (SPA)/Ramsar site lies 1.75 kilometres (km) to the south at its nearest point and covers an area of 828 ha. The protected site consists of embanked water supply reservoirs and former gravel pits that provide a range of open water habitats that are

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<sup>4</sup> CD1.28 is the site location plan. CD1.13 page 15 provides an aerial photograph of the site context

<sup>5</sup> CD1.43 paragraph 13.27

<sup>6</sup> CD1.18 Figure 1.1

<sup>7</sup> SBC/03 Appendix 20 and GLD/4/C Appendix 8 show the extent of the Green Belt. GLD/4/C Appendix 10 provides a map to show the extent of the Colne Valley Park.

important for migratory species of gadwall and shoveler. The SPA is made up of seven component Sites of Special Scientific Interest (SSSIs), each site on its own classed as being of national importance for wintering birds and their habitats<sup>8</sup>. Old Slade Lake is a local wildlife site and Old Wood is the remnants of an ancient woodland. The species poor semi-improved grassland covering the appeal site is of local value to nature conservation.

- 2.7 There are two Air Quality Management Areas (AQMA) within the Brands Hill area to the west, both declared in 2005<sup>9</sup>. AQMA no. 1 covers the land adjacent to the M4 motorway along the north carriageway between junctions 5 and 7 and along the south carriageway between junction 5 and Sutton Lane. AQMA no. 2 covers the A4 London Road east of junction 5 of the M4 motorway as far as Sutton Lane. The A4 at Colnbrook was identified as a location experiencing some of the highest proportions of heavy goods vehicles (HGVs) in the Borough<sup>10</sup>.
- 2.8 The Environment Agency's indicative flood mapping shows the Assessment Site lies within flood zones 2 and 3. However, based on more detailed work, the Assessment Site is shown to be located out of the flood plain. All of the proposed development, save for the new railway link, would be located within flood zone 1.
- 2.9 Various developments have taken place in the locality of the site in recent years. These include the Grondon Waste Management Incinerator<sup>11</sup> on the nearby Lakeside Industrial Estate. The incinerator is around 42 m high, the chimney has a height of approximately 76 m and by reason of its distinctive design the development is a landmark. The Colnbrook Logistics Centre was originally built for the delivery, storage and assembly of components and materials related to the construction of Heathrow Terminal 5 and continues to be used for Heathrow construction projects. Tanhouse Farm on Lakeside Road is now a permanent materials metals recovery facility, waste reduction and transfer facility<sup>12</sup>.

### **3. PROPOSED DEVELOPMENT**

- 3.1 The proposal is in outline with access to be determined at this stage. All remaining matters (scale, layout, appearance and landscaping) are reserved for future consideration.
- 3.2 The application is supported by a series of Parameter Plans that identify the basic elements of the scheme, including the distribution of land uses within the site, the amount of expected development and building scale. The plans detail the limits or controls necessary to define and fix those aspects of the development capable of having significant environmental effects. The aim is to

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<sup>8</sup> CD1.43 page 254 Table 12.4 summarises information on the statutory and non statutory sites. CD1.19 Appendix 12.1 includes information sheets on the designated sites and Appendix 12.8 provides a report on the SPA.

<sup>9</sup> CD1.43 Chapter 8.0A paragraph 8.88 and Figure 8.7. CD1.19 Figure 8.6 shows AQMA in adjoining local authorities.

<sup>10</sup> CD1.42 paragraph 3.1

<sup>11</sup> GLD/4/C Appendix 3 provides an oblique aerial photograph that identifies the surrounding settlements, infrastructure and other developments.

<sup>12</sup> CD7.2 paragraph 5.7 and Appendix 3 provide further details, including a location plan.

ensure, through planning conditions, that the details of the proposed development in the reserved matters are consistent with the development parameters that informed the EIA. An indicative master plan brings together all the parameters to show the scheme as a whole<sup>13</sup>.

3.3 The site would incorporate three building plots for Class B8 distribution units. Plot A, 9.73 ha, would accommodate up to 55,190 m<sup>2</sup> gross external area (GEA); Plot B, 10.58 ha, is for up to 67,023 m<sup>2</sup> GEA and Plot C, 10.67 ha, is for up to 72,623 m<sup>2</sup> GEA. The maximum ridge height of the buildings within the three plots would be 18.3 m.

3.4 The rail infrastructure to be constructed comprises<sup>14</sup>:

- Two arrival/departure sidings alongside the Colnbrook Branch Line, capable of receiving trains 775 m in length and a turnout from these sidings into the site. The sidings would allow full length trains to clear the Colnbrook Branch Line before being hauled into the reception sidings or departing trains to be held before their allocated main line path.
- Four internal reception sidings capable of receiving trains of 775 m in length plus a locomotive release line served from the arrival/departure sidings by means of a single internal connecting line.
- An intermodal terminal (3.74 ha) positioned between Plots A and B consisting of four cargo handling railway sidings, each around 400 m in length and therefore capable of handling 2 x 775 m trains simultaneously. Access would be from the reception sidings by means of a single connecting internal line. The terminal would allow freight conveyed in intermodal units to be transferred between railway wagons and the warehouse units without the use of the public highways. It would also serve off-site non-rail linked logistics facilities, shippers and distributors.
- Railway sidings alongside units B and C, served from the reception sidings by means of a single connecting internal line, to allow the transfer of cargo from box wagons directly into the warehouse units.
- Two rail mounted gantry cranes, maximum height 25 m, to enable the quick transfer of containers to and from the warehouses. A spreader beam would enable accurate positioning of the cargo.
- Within the intermodal terminal the provision of hardstanding areas alongside the railway sidings for stacking/storing loaded and empty intermodal units. An estimated 500 to 1,000 containers would be stored in stacks of approximately 3 m high.
- Loading areas adjacent to the hardstanding areas to enable HGVs to collect/deliver the intermodal units.

3.5 The Appellant has advised that terms have been agreed with DB Schenker Rail (UK) Ltd for the operation of the intermodal terminal.

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<sup>13</sup> CD1.30

<sup>14</sup> CD7.6 paragraph 2.1



- 3.6 In advance of the implementation of the proposed development, the Colnbrook Branch Line would be upgraded by the addition of new signalling and additional trackage. The purpose of the works would be to improve the branch line's long term capacity and operational efficiency and its connection with the GWML<sup>15</sup>. The works would not require planning permission, being permitted development under Class A of Part 8 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
- 3.7 Vehicular access into the site is proposed at two points on the A4 Colnbrook Bypass. The western access would be an all movement signal controlled junction. The eastern access, immediately west of Colne Bridge, would be a slip road to allow entry only for HGV traffic arriving from the west.
- 3.8 A short term lorry park (83 spaces) would be sited on the north side of unit A and a long term lorry park (174 spaces) would be sited to the east of unit C. Lorry docking units would be along the sides of each of the units as part of the service yard and circulation areas. The HGV park would be a secure off-road facility with basic amenities to provide a rest area for drivers. Car parking is proposed in areas to the front of the three units, accessed from the new internal service road. Cycle and motorcycle parking spaces would be allocated for each building. Crime prevention measures would include weldmesh fencing to all boundaries, security gatehouses manned 24 hrs and CCTV installations.
- 3.9 The development would operate 24 hours a day seven days a week. Approximately nine trains per day (inbound and outbound) are forecast to go to and from the development once fully operational. Train arrivals/departures would be broadly spread throughout the 24 hour period with the probable exception of the 0600-0900 hours and 1600-1900 hours passenger peaks.
- 3.10 The Landscape and Green Infrastructure Strategy (LGIS) puts forward proposals for the site and adjacent lands, covering an area of 78.8 ha<sup>16</sup>. The identification of 11 distinct Action Areas and the development of landscape strategies for each area culminated in a Landscape Masterplan. The proposals include:
  - enhancement of public rights of way with new signage, gates, crossings and surfacing;
  - habitat creation including new meadow grassland and new wet grassland habitats in association with sustainable drainage attenuation areas/systems (SuDS), together with vegetation management along Colne Brook;
  - lake edge improvements to the northern shore of Old Slade Lake incorporating an elevated broadwalk and new fishing platforms;
  - woodland management and new woodland planting, focussing on Old Wood and adjacent land;
  - structural boundary treatment and planting in the corridors around the physical extents of the freight interchange, with buffer planting between the development and Colne Brook;

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<sup>15</sup> GLD/5/B paragraphs 5.5 to 5.8 explain the existing and proposed arrangements. See also CD1.36

<sup>16</sup> CD1.33

- landscape improvements along Colnbrook Bypass in conjunction with the proposed access arrangements.
- 3.11 Landscape and green infrastructure improvements on land outside the Appellant's land holdings are provided for in the section 106 agreement.
- 3.12 A Flood Risk Assessment (FRA) was carried out as part of the EIA<sup>17</sup>. The route of the new railway link would cross Colne Brook, Old Slade Lake and the floodplain of both the Colne and Horton Brooks. The new railway link would bridge over the watercourses but would be on a raised embankment through the Old Slade Lake and floodplain areas. A floodplain compensation area would be located on Colne Brook, with two smaller areas located near to Old Wood, to mitigate the potential for an increase in flood risk caused by the loss of floodplain storage. The intention is to construct these floodplain compensation areas prior to the construction of the rail embankment to ensure no increase in flood risk.
- 3.13 The surface water drainage strategy addresses the effects caused by an increase in impermeable surfaced area that would reduce infiltration rates, increase surface water run-off, increase flows in the local watercourses and potentially increase flood risk downstream. Greater amounts of suspended solids could reach the watercourses and lakes and cause water quality degradation. The proposal is to attenuate surface water run-off to the existing greenfield runoff rates before its discharge to Colne Brook, Horton Brook and Tanhouse Stream. Attenuation would be provided by the use of a SuDS, including permeable paving, attenuation basins and swales. Site levels have been dictated by the need to reduce the use of pumping stations and by the relatively shallow depth of the outfalls at the adjacent watercourses<sup>18</sup>. Foul water drainage would be taken to the adjacent sewage treatment works.

#### **4. PLANNING HISTORY AND DEVELOPMENT PROPOSALS**

- 4.1 In June 1999 a proposal by Argent Group plc for a scheme known as the London International Freight Exchange (LIFE) was refused planning permission by SBC. The LIFE site of some 182 ha incorporated the appeal site and additional land to the west and to the east into the London Borough of Hillingdon. The proposal included road and rail freight interchange facilities, an intermodal terminal capable of handling up to 20 trains a day, distribution units (214,000 – 224,000 m<sup>2</sup>), sidings, transit and open storage facilities and connections to the Poyle Freight Line. The scheme also included rail improvements at West Drayton and on the GWML, with the construction of a west facing loop onto the GWML. An appeal was dismissed by the Secretary of State in August 2002<sup>19</sup>.
- 4.2 Three proposed infrastructure projects have relevance to the site and proposed SRFI.
- 4.3 Crossrail will connect the GWML to the Great Eastern Main Line and the North Kent Line, allowing passenger train services to cross London in an east west direction. Works include the construction of a fifth track on the GWML at West

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<sup>17</sup> CD1.20 is the FRA. CD1.43 Chapter 14.0A is the relevant chapter on water resources and flood risk in the 2015 ES Addendum.

<sup>18</sup> CD1.20 Appendix F Surface water drainage strategy report.

<sup>19</sup> CD6.1 and CD6.2

Drayton and grade separated junctions associated with the GWML. The intention now is to provide a Crossrail service from Reading to central London by extending 2 of the 4 hourly off-peak central London to Maidenhead trains to Reading. This change reduces the number of passenger trains using the relief lines and increases freight capacity.

- 4.4 Western Rail Access to Heathrow (WRATH) is a proposal by Network Rail to create a new direct rail link between the GWML and Heathrow. An application for a Development Consent Order is forecast to be submitted in Spring 2016. The proposed development would not constrain the future delivery of WRATH, subject to safeguarding a route for a tunnel under the site, the reasonable provision for the construction of a ventilation/intervention shaft and necessary associated infrastructure.
- 4.5 M4 Junctions 3 to 12 Smart Motorway Scheme is a National Infrastructure Project and has progressed to the pre-examination stage. The proposed works to upgrade the motorway would provide for variable speed limits and for the hard shoulder to be used as a running lane.
- 4.6 WRATH and the Smart Motorway Scheme were taken into account in the cumulative effects assessment in the 2015 ES Addendum. Two other developments were also considered:
- extraction of sand and gravel, land restoration and erection of a gravel processing plant on land east of Horton Road in the Royal Borough of Windsor and Maidenhead;
  - use of the Colnbrook Logistics Centre for the redevelopment of Terminals 1 and 2 at Heathrow Airport.
- 4.7 The three options shortlisted by the Airports Commission were not considered as cumulative schemes because none of the options represent a commitment in planning terms.

#### *SRFI proposals*

- 4.8 Land at Radlett. On 14 July 2014 the Secretary of State granted outline planning permission for the construction of a SRFI comprising an intermodal terminal and road and rail distribution units (331,665 m<sup>2</sup> in Use Class B8 including ancillary B1/B2 floorspace), with associated road, rail and other infrastructure facilities, works and a relief road in a landscaped setting and further landscaping and works to provide publicly accessible open land and community forest<sup>20</sup>. The site is described as land in and around a former aerodrome, North Orbital Road, Upper Colne Valley, Hertfordshire.
- 4.9 Howbury Park, in the London Borough of Bexley, is a Green Belt site granted outline planning permission by the Secretary of State on 20 December 2007<sup>21</sup>. Applications for the approval reserved matters were not submitted within the timescale and the permission lapsed.

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<sup>20</sup> CD6.7

<sup>21</sup> CD6.4

- 4.10 The Kent International Gateway (KIG) SRFI proposal in Maidstone Borough was dismissed by the Secretary of State on 5 August 2010<sup>22</sup>.
- 4.11 London Gateway, Thurrock, is a port development that has intermodal rail infrastructure and a logistics park of Class B8 buildings adjacent.
- 4.12 A site in the Ripple Road/Renwick Road area of Barking is identified by the Borough's development plan as an opportunity for an intermodal facility/possible freight terminal and ancillary logistics and manufacturing uses. The main parties agree that the land available is too small to provide a SRFI.
- 4.13 A site at Sundon Quarry near Luton has been identified for an intermodal freight exchange in the draft Development Strategy for Central Bedfordshire. A proposal is being progressed by Prologis, although size would preclude the development of a SRFI.

## 5. PLANNING POLICY

### Development Plan

- 5.1 The Slough Core Strategy 2006 - 2026 (CS) was adopted in December 2008 and the Slough Site Allocations Development Plan Document (SSA) was adopted in November 2010. The Local Plan for Slough (LPfS) adopted in March 2004 has saved policies that remain relevant<sup>23</sup>. The Berkshire Minerals Local Plan 2001 and the Berkshire Waste Local Plan 1998 do not contain policies material to the determination of this appeal.

### *Slough Core Strategy*

- 5.2 The spatial strategy confirmed through Core Policy 1 (Spatial Strategy) is to require all development to take place within the built up area, predominantly on previously developed land, unless there are very special circumstances that would justify the use of Green Belt land<sup>24</sup>. A Strategic Gap will be maintained between Slough and Greater London<sup>25</sup>.
- 5.3 Core Policy 2 (Green Belt and Open Spaces) maintains the existing areas of Green Belt and states that opportunities will be taken to enhance the quality and size of the Green Belt. Development will only be permitted in the Strategic Gap and the open areas of the Colne Valley Park if it is essential to be in that location. By way of justification, reliance is placed on national policy in Planning Policy Guidance 2 (now replaced by the Framework) that sets out a general presumption against all uses that would affect the openness of the land. The remaining open land in Colnbrook and Poyle, east of Langley/Brands Hill is identified as being of particular importance because it is a fragmented and vulnerable part of the Green Belt. Hence additional restraint will be applied to this area. The expectation is that implementation of the policy will mean there will be very little development in the Colnbrook and Poyle area, apart from possible regeneration of Poyle Trading Estate.

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<sup>22</sup> CD6.9

<sup>23</sup> See CD5.3 (the CS), CD5.5 (the DPD) and CD5.1 (the LPfS)

<sup>24</sup> Mr Flisher noted that the requirement is not confined to inappropriate development – GLD/3/B paragraph 7.17.

<sup>25</sup> CD7.2 Appendix 5 and GLD/4/C Appendix 9 show the extent of the Strategic Gap. The Core Strategy Key Diagram is at CD5.3 page 53.

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- 5.4 Core Policy 5 (Employment) requires that the location, scale and intensity of new employment development must reinforce the spatial and transport strategies. The policy objectives are to encourage major employment development in the town centres, facilitate regeneration of Slough Trading Estate and the gradual renewal of the other existing business areas over the plan period. Major warehousing and distribution developments are directed to the eastern part of the Borough and existing business areas that have good access to the strategic road and rail network.
- 5.5 Core Policy 7 (Transport) seeks to ensure new development is sustainable and is located in the most accessible locations, thereby reducing the need to travel. Development proposals are required to make appropriate provision for widening travel choices, improving road safety and improving air quality. Core Policy 8 (Sustainability and the Environment) sets out requirements to ensure all development is based on sustainable design and construction principles, is of a high quality design, improves the quality of the environment and addresses the impact of climate change. Core Policy 9 (Natural and Built Environment) includes requirements to ensure development respects the character and distinctiveness of landscapes, protects and enhances the water environment and its margins, enhances and preserves natural habitats and the biodiversity of the Borough. Core Policy 10 (Infrastructure) seeks to secure the provision of reasonable and necessary infrastructure to serve the needs of new development.
- 5.6 Core Policy 11 (Social Cohesiveness) encourages new facilities that will serve the diverse needs of local communities. Development should be easily accessible to all. Community safety is addressed by Core Policy 12.
- 5.7 In considering future trends and developments, the CS acknowledges the proposals for SIFE. There is no specific policy but paragraphs 2.39 to 2.31 set out the criteria for the consideration of any further rail freight facilities at Colnbrook<sup>26</sup>. A proposal would need to demonstrate: a national or regional need for such a development, very special circumstances sufficient to overcome Green Belt and other strategic planning objections, no unacceptable environmental impacts and accommodation of the facility on the existing road and railway network. This would include safeguarding capacity for Crossrail and the proposed western connection passenger link to Heathrow. If permitted, a high level of rail use of the warehousing would have to be guaranteed in order to ensure the proposed benefits of the freight exchange are actually delivered.

#### *Slough Site Allocations Development Plan Document*

- 5.8 The SSA proposes a non-statutory informal nature reserve at Old Slade Lake, Orlits Lake and Colnbrook west (ref. SSA25). The site planning requirements are to encourage habitat enhancement and / or creation and to ensure public access, if appropriate, is managed to prevent a negative impact on diversity. The lakes are described as a valuable wildlife haven and wildlife link because of their location in the Colne Valley Regional Park, close to intense urban activity. The allocation carries forward proposal site 39 in the LPfS.

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<sup>26</sup> The Inspector's Report on the CS supported a proactive approach in providing a clear framework for future proposals - CD5.2 paragraphs 10.1, 10.2.

5.9 There is no reference to a SRFI on land north of Colnbrook Bypass<sup>27</sup>.

*Local Plan for Slough*

5.10 Policy CG1 sets out the criteria to be applied to development proposals in the Colne Valley Park in order to protect and enhance the countryside or other open areas in the Park and to improve opportunities for residents and visitors. Policy CG2 supports the establishment of a linear park with shared use for pedestrians and cyclists from the western to the eastern boundary of the Borough. Development proposals that would prejudice the route or detract from users' enjoyment will not be permitted. Policy CG9 does not permit any proposal that threatens the clear separation or the role of open land within the strategic Green Belt gap between the Slough urban area and Greater London.

5.11 Policy EMP2 sets out criteria for business developments and Policy EMP4 the criteria for such development outside of the existing business areas. Policy EN1 is concerned with securing a high standard of design and Policy EN3 requires comprehensive landscaping schemes for all new development proposals. Policy EN5 aims to reduce the fear of crime and secure appropriate crime prevention measures within development proposals. Policies EN22 and EN23 promote nature conservation interest and Policy EN24 is specific to the protection of watercourses.

5.12 Policy T7 relates to the maintenance and enhancement of the rights of way network in new development. Policy T8 requires the provision of all necessary infrastructure to encourage cycling as a mode of travel and the implementation of a proposed cycle network in Slough. Policy T9 is directed at making the bus an attractive mode of travel. Policy T11 does not permit development if it would prejudice the use or operation of the West Drayton to Staines railway line for future passenger or freight services. Policy T12 only permits new rail freight transfer facilities where they can be accommodated without having an unacceptable effect upon the local environment or cause congestion or road safety problems on the local highway network.

*Composite Plan for Slough*

5.13 In July 2013 SBC agreed to publish the Composite Local Plan for Slough, a single document containing all the current policies which together form the development plan for Slough<sup>28</sup>. This was an administrative exercise intended to make the plans easier to use and did not involve the introduction of any new policies. At the same time SBC agreed to insert in the Composite Plan a statement of intent to apply a presumption in favour of sustainable development to reflect national planning policy.

5.14 SBC has agreed that the Local Plan will need to be reviewed. A formal timetable and a Local Development Scheme have not been published.

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<sup>27</sup> CD5.4 paragraphs 3.81 to 3.85 of the Inspector's Report on the SSA concluded there was no need to introduce such a reference.

<sup>28</sup> CD5.7

## National Policy

- 5.15 The two key documents are the National Planning Policy Framework (the Framework) and the National Policy Statement for National Networks (the NPS). The NPS explains that the overall strategic aims of the two policy documents are consistent in seeking to achieve sustainable development. However, the NPS states that the two have differing but equally important roles to play. The NPS provides transport policy which will guide individual development brought under it.
- 5.16 The planning statement of common ground draws attention to transport policy documents, including the Logistics Growth Review 2011, that inform the current national context for rail freight<sup>29</sup>.

## Strategic Policy

- 5.17 The London Plan (consolidated with alterations since 2011) was adopted in March 2015 (the London Plan). It is common ground that the relevant provisions in the London Plan and associated Supplementary Planning Guidance (SPG) are material in the determination of SRFI proposals to serve London and the South East.
- 5.18 Policy 6.14 aims to improve freight distribution and promotes the movement of freight by rail and waterway. There is support for the development of corridors to bypass London, especially for rail freight to relieve congestion within London. Policy 6.15 supports the provision of SRFIs and sets out the relevant criteria. These facilities must deliver modal shift from road to rail; minimise any adverse impact on the wider transport network; be well related to rail and road corridors capable of accommodating the anticipated level of freight movements; and be well related to their proposed markets.
- 5.19 The SPG Land for Industry and Transport includes a section on logistics and warehousing. Reference is made to research identifying six principal property market areas for industry and logistics in London, including the Park Royal/A40/M4/A4 corridors overlapping with Heathrow<sup>30</sup>.
- 5.20 The South East Plan and the East of England Plan were revoked in 2013, although the evidence of the main parties refers to the documents to provide background context.

## 6. AREAS OF AGREEMENT

### Planning<sup>31</sup>

*Green Belt, Colne Valley Park, Biodiversity*

- 6.1 The proposed development is inappropriate development by reason of paragraph 89 of the Framework. By definition it causes harm to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by

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<sup>29</sup> CD7.2 paragraph 6.9

<sup>30</sup> CD4.8 Section 5 paragraph 5.13 and Annex 4

<sup>31</sup> CD7.2

reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

- 6.2 SBC and the Appellant, in conjunction with the Colne Valley Partnership and adjoining authorities, have agreed an overall package of on and off site landscape and green infrastructure measures. The proposed measures reflect the multifunctional and regional role of the Colne Valley Park and the aim of improving access to the surrounding countryside. On site measures would be delivered through the Landscape Masterplan. The off-site measures seek to (i) prioritise those local communities impacted by the development, (ii) compensate for the effect on the Colne Valley Park for recreation and biodiversity through projects that could be delivered by the Park Partnership via the Groundwork Trust, and (iii) have an effective balance between capital works and management. Long term management and maintenance of the landscape proposals would be achieved through the implementation of a comprehensive landscape management plan as indicated in the ES and secured through planning condition(s).
- 6.3 The Appellant's approach to the diversion of public rights of way on the site<sup>32</sup> is appropriate and would be progressed under section 257 of the Town and Country Planning Act 1990, the Highways Act 1980 and the Road Traffic Regulation Act 1984 should the appeal be allowed.
- 6.4 The current level of ecological interest of the appeal site is as determined by the ecological baseline surveys undertaken. This will be verified at reserved matters stage. A Construction Environmental Management Plan (CEMP) would manage construction timings and methods in order to ensure compliance with the legal requirements to protect identified species and habitats of principal importance. The proposed ecological mitigation measures include creation of new areas of grassland, replacement lake edge and marginal habitats, new tree, woodland and shrub planting, translocation of reptiles and implementation of a habitat management plan. These measures would appropriately address the current ecology of the site and can be managed through planning conditions and a section 106 agreement<sup>33</sup>.

#### *Strategic Rail Freight Interchange*

- 6.5 The proposed development constitutes a SRFI because the site area is in excess of 40 ha and it incorporates an intermodal terminal and arrival/departure and reception sidings capable of receiving 775 m length trains. The SRFI is less than 60 ha and so does not constitute a Nationally Significant Infrastructure Project. Nevertheless the NPS is a very significant material consideration for the determination of the proposed development<sup>34</sup>.
- 6.6 There is a 'policy need' for new SRFIs to serve London and the South East. The 'policy need' included the long standing identified need for 3 to 4 SRFIs to serve this Region. There is more recent provision in the NPS for a network of SRFIs.

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<sup>32</sup> CD1.29 Access and Movement Parameter Plan

<sup>33</sup> CD1.19 Chapter 12.0 and CD1.43 Chapter 12.0A assess the effect on ecology.

<sup>34</sup> The NPS at paragraph 1.4 states that the NPS may be a material consideration in decision making on applications that fall under the 1990 Act. Whether, and to what extent, the NPS is a material consideration will be judged on a case by case basis (CD3.6).



The NPS recognises that there is a particular challenge in expanding rail freight interchanges to serve London and the South East.

- 6.7 The provision of one train a day for the first year of operation and four trains a day for the next four years constitutes a 'high level' of rail service for the early stages of the operation of the SRFI in accordance with CS paragraph 2.31 and if fully utilised will ensure that the benefits of the freight exchange will actually be delivered.
- 6.8 In terms of the distribution sector, the west of London area represents a very substantial catchment area with a high demand for the supply of goods. New large strategic sites for distribution buildings above 23,200 m<sup>2</sup> are very rare. For this reason, together with the popularity of the general location, the west of London area has been characterised by the highest levels of land value and consequently rental levels.
- 6.9 London Heathrow Airport operates as a sub-market in its own right characterised by air freight and airport related uses. The proposed development would not function as part of the London Heathrow Airport related occupier sub-market, which generally is for buildings below 100,000 sq ft<sup>35</sup>.
- 6.10 SRFIs should be located around London in order to get the best geographical spread. In terms of accommodating the proposed development, there are no appropriate alternative locations within Slough Borough. No appropriate alternative locations have been identified in close proximity to the GWML or in the west of London area as defined in the Assessment of Alternative Sites<sup>36</sup>.
- 6.11 Radlett has planning permission for a SRFI. The other 19 long listed sites in the Assessment of Alternative Sites, together with the 90 sites identified initially, are not appropriate locations to accommodate a SRFI.

#### *Other matters*

- 6.12 No design based objection to the proposed development is made in the context of CS Core Policy 8.2 and LPfS Policies EN1 and EN5. The master plan is adequate in terms of access for vehicles, access by rail and access by pedestrians.
- 6.13 The proposed development would not affect the Colnbrook Conservation Area.
- 6.14 Subject to management through planning conditions, the outline strategies and the mitigation measures identified in the ES are agreed in respect of ground conditions, noise, lighting, archaeology and cultural heritage, surface and foul water drainage.
- 6.15 The results of the FRA are agreed. The Environment Agency has confirmed that outstanding matters may be dealt with through appropriate planning conditions.
- 6.16 An appropriate skills, training and recruitment programme can be secured through the section 106 agreement.

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<sup>35</sup> The imperial measurement was stated, which is equivalent to 9290 m<sup>2</sup>

<sup>36</sup> CD1.16 page 281 Appendix 11

## Rail access<sup>37</sup>

- 6.17 The site is located to the west of the Colnbrook Branch Line, approximately 3.4 km to the south west of the Branch Line's connection with the GWML at West Drayton junction. The branch line joins the main line in an eastbound direction. The site therefore benefits from direct access to the national railway network. The GWML is part of the strategic freight network (SFN), the designated core trunk network that Network Rail is progressively enhancing both in terms of capacity and capability. The site also lies in close proximity to the M25 (Junction 14) and the M4 (Junction 5).
- 6.18 The Colnbrook Branch Line continues to operate as a single track, freight only line, serving an aggregates terminal (Thorney Mill), a fuel depot, London Concrete and Aggregate Industries and the Colnbrook Logistics Centre. The line currently receives an average of 2 train arrivals per day.
- 6.19 An appropriate site for rail served logistics activity will meet a range of criteria, including one where the adjoining railway line(s) offers good operational flexibility, has available freight capacity and a loading gauge capable of handling the full range of intermodal units on standard platform wagons.
- 6.20 Good operational flexibility is where full length train services can access a site directly without the need to reverse or use a long diversionary or circuitous route. Trains from the deep sea container ports (Felixstowe, London Gateway, Tilbury, Thamesport Southampton and Liverpool), the Channel Tunnel, the Midlands, Northern England and Scotland could access the site direct without the need to reverse or use a circuitous route<sup>38</sup>. From the west of England and South Wales, train services would approach from the west on the GWML and utilise the run around manoeuvre at Acton freight sidings and then proceed back to West Drayton junction and the Colnbrook Branch Line.
- 6.21 At SIFE trains would approach the development westbound along the GWML, entering the Colnbrook Branch Line at the West Drayton junction and run southbound to the new arrival/departure sidings. The proposed railway access would largely be built on an embankment with a bridge over Colne Brook. In the area of Old Slade Lane, the railway access would cut underneath the existing Old Slade Lane embankment.
- 6.22 The Appellant forecasts that approximately 9 trains per day (inbound and outbound) would go to and from the proposed development once fully operational over time. Eight of these trains are likely to comprise intermodal trains, destined for the intermodal terminal. The remaining train is likely to comprise a conventional box wagon train which will travel directly to one of the warehouse units. Therefore the vast majority of rail traffic would be via the intermodal terminal.
- 6.23 Loading gauge W9 is agreed to be the minimum requirement for a rail linked logistics development. By the time the proposed development is operational all major routes serving SIFE from the key cargo origins should be cleared to at least loading gauge W9. The proposed development could handle the full range

<sup>37</sup> CD7.6

<sup>38</sup> CD7.6 paragraph 3.2 details the main line access routes to the appeal site.

of intermodal units on standard platform wagons (high cube containers and European intermodal units on Megafret Wagons).

- 6.24 In terms of freight capacity, the availability of at least one freight path per hour per direction during the off peak is the minimum requirement for a successful SRFI.

## Highways<sup>39</sup>

- 6.25 The 'on-site' SIFE access arrangements will be constructed to the approval of the highway authority (SBC). The layout will be designed to encourage staff to travel to and from work by foot, by cycle or by public transport. The proposals include dedicated waiting areas for delivery vehicles to eliminate any need for them to park on public roads. The two vehicle access points from the A4 Colnbrook Bypass will incorporate facilities to ensure safe routes and crossings for cyclists and pedestrians. The western access will be constructed first, followed by the extensive areas of hardstanding, before work starts on the buildings and the installation of heavy equipment.
- 6.26 The proposed 974 car parking spaces to serve the SIFE site are appropriate in meeting operational requirements and will not encourage excessive sole occupancy car trips. The level of provision is consistent with parking standards set out in the LPfS. Provision for disabled staff and visitors, cycle and motorcycle parking will be in accordance with national and local guidance.
- 6.27 The methodologies and results for trip generation, trip distribution and assignment were agreed with SBC. The trip generation values were higher than those forecast using TRICS data or generated by the Daventry International Rail Freight Terminal (DIRFT) site and therefore ensured the analysis was robust. As a result of questions raised by Highways England<sup>40</sup>, sensitivity testing was carried out on the routing for light vehicles and it was agreed the original distribution was appropriate. The vast majority of light vehicle trips will be employees travelling to and from work.
- 6.28 It is predicted, using the Great Britain Freight Model, that SIFE would generate some 1,615 HGV trips per day in each direction. In summary, all HGVs, except those to or from the M25 south, will arrive and leave to or from the west<sup>41</sup>. As agreed with SBC, between 2300 and 0500 hours it would be appropriate to route HGV traffic arriving and leaving the site to the motorway network via Junction 14 of the M25 in order to reduce the environmental impact of HGVs on the A4 in the Brands Hill Area.

## *Measures to influence employee and freight travel*

- 6.29 A Framework Travel Plan has been submitted to promote sustainable travel to and from the site by employees and people travelling on business. The measures will be funded by the developer in full from the capital and revenue

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<sup>39</sup> CD7.3

<sup>40</sup> Highways England was the Highways Agency prior to April 2015. 'Highways England' is used throughout the report.

<sup>41</sup> CD1.42 Table 2.1 Distribution of forecast HGV movements to and from SIFE. 40% of movements are forecast to/from the east via M4 jn5 & M4 east of M25.

budgets allocated to the travel plan. The provisional targets, to be revised in light of staff surveys carried out when producing the finalised travel plan, are:

- Employee and visitor movements: the target modal share for car drivers will be set at 60% to be achieved within three years, with a reduction targeted at 55% within 5 years of opening.
- Car sharing: the proportion of drivers who are car sharing within the first year of opening will be targeted at 25%.

6.30 The production, monitoring and review of a travel plan, based on the Framework Travel Plan<sup>42</sup>, will be secured through a section 106 agreement. A travel plan co-ordinator will be appointed to finalise the plan and put it into operation.

6.31 Public transport information measures will be implemented, directed at real time passenger information screens at bus stops nearest the site and on bus routes serving the SIFE site within the Borough of Slough. A contribution of £68,640 per annum for a period of 5 years will be made to SBC to fund additional journeys by bus services along the A4 Colnbrook Bypass. A further contribution of £29,000 will be made to SBC to fund Urban Traffic Management Control<sup>43</sup>.

6.32 A contribution of £1,025,000 will be made towards green infrastructure. The measures will include: construction of a stretch of the National Cycle Network as a traffic free route alongside the A4 between Brands Hill and SIFE to connect two existing routes; provision of an enhanced pedestrian and cycle crossing over the A4 on the Colne Valley Trail at SIFE; improvements to public rights of way, including the Colne Valley Way<sup>44</sup>.

6.33 A Framework Freight Management Plan was developed in conjunction with SBC and Highways England. The aim of the plan is to manage freight movements in and out of SIFE so as to minimise their impact on the surrounding road network. A revised Freight Management Plan, substantially in accordance with the Framework Plan, will be submitted for approval by SBC in advance of occupation of the first unit<sup>45</sup>. In addition, an automated system for monitoring HGVs entering and leaving the site will be agreed with SBC. The purpose will be to monitor whether traffic entering the site during the AM peak exceeds 100 vehicles per hour, the limitation of annual HGV movements to 992,880 and compliance with routeing requirements.

#### *Highway impacts and mitigation measures*

6.34 In agreement with SBC, Highways England and Transport for London (TfL) the impact of vehicular traffic generated by the proposed development was investigated at a number of junctions. As a result of forecasting and modelling work it was agreed with SBC and the London Borough of Hillingdon that the A4 Colnbrook Bypass priority junction with Lakeside Road west and the A4 Colnbrook Bypass signalised junction with Lakeside Road east would need no

<sup>42</sup> CD7.3 paragraphs 3.1.3 to 3.1.12 detail the likely process and measures of the travel plan.

<sup>43</sup> CD7.3 paragraphs 3.2.1 to 3.2.4 detail the other measures to promote the use of sustainable modes.

<sup>44</sup> CD7.3 paragraph 3.2.5

<sup>45</sup> CD1.42 is the document referred to in the section 106 agreement.

improvement. Mitigation measures, to be carried out before the development is first occupied, have been agreed in principle for the following junctions:

- M4 Junction 5 / A4 London Road (signalised roundabout), to include an additional circulating lane, improvements to entry and exits, replacing the pedestrian footbridge and subway with a segregated footway/cycleway and at grade signal crossings and replacement noise bunds to be relocated on the M4 westbound off-slip road.
- A4 London Road (between Junction 5 and Sutton Lane), comprising works to pedestrian crossing facilities.
- A4 Colnbrook Bypass gyratory junction with Sutton Lane, comprising works to improve capacity and facilities for pedestrians and cyclists.
- A4 Colnbrook Bypass / access to development, comprising a new signalised entry and exit to the site some 475 m west of Colne Bridge and an eastbound entry only slip road for HGVs entering the site from the west some 50 m west of Colne Bridge.
- A3044 Stanwell Moor Road signalised roundabout with A3113 Airport Way, to include an additional lane on the northbound exit to Stanwell Moor Road and reallocation of lanes on the circulatory carriageway.
- Signalised junction of A4 and A3044 Stanwell Moor Road, where works would be limited to signal improvements and at grade modifications to the junction within the adopted highway boundary.

- 6.35 Measures have been agreed with Highways England to improve peak period performance of the junction at the M25 Junction 14 signalised roundabout with A3113 Airport Way and Horton Road. The trigger for the improvements will be when HGV traffic entering the site during the AM peak period exceeds 100 vehicles per hour on 3 or more occasions within the monitoring period.
- 6.36 The 'in principle' highway mitigation schemes have been safety audited and the auditor's recommendations can be accommodated within the detailed designs.
- 6.37 Accident analysis has resulted in the conclusion that the overall accident rate in the agreed study area is not particularly high given that the roads in question are major roads carrying heavy traffic flows. There are no patterns amongst the conflicts reported that suggest any specific remedial measures. Overall the accident situation gives no particular cause for concern. The accidents on the motorways were of a type typical of slow moving or queuing traffic. The proportion involving HGVs was above the average for all roads but may reflect the heavy flows, congested conditions at peak periods and frequent lane changes. There was no evidence to suggest that any accidents resulted from highway layout deficiencies or that the relatively small increase in traffic flow generated by SIFE would be detrimental to highway safety.
- 6.38 The increase in traffic and proposed changes to the various junctions and links will have road safety implications. The issues can be resolved through detailed design of the junctions involved and by working with SBC on safety campaigns targeting specific casualty groups.

- 6.39 The traffic flow data collected for the Transport Assessment, with appropriate adjustments, was used to assess SIFE's impact on air quality<sup>46</sup>.

*Cumulative schemes*

- 6.40 The impact of proposed relocation of the Heathrow Express Depot to Langley would be in the region of 26 HGVs per hour at the worst during the construction period. The operational impact will be negligible by reason of the small number of staff and its use by the occasional maintenance vehicle.
- 6.41 The effect of construction and operational traffic from WRATH on the appeal proposal is not expected to be significant. The main construction compound will be south of the GWML, away from the site. Operational traffic will be light, connected purely with the maintenance and servicing at the shaft site.
- 6.42 The CEMP would be able to make provision for extra traffic counts on the A4 during the construction period and then consideration of additional mitigation measures in the event results indicate that base traffic flows have increased over and above the predicted growth due to the implementation of other schemes.

***Air quality***<sup>47</sup>

- 6.43 The air quality assessment within the August 2010 ES and its June 2011 Addendum was entirely replaced. All agreements between the Appellant and SBC are based on the ES Addendum April 2015<sup>48</sup>.
- 6.44 The air quality assessment uses a base year of 2012. The ADMS Roads model is a suitable model for assessing the air quality impacts of SIFE. The model set up has been reviewed and agreed. With the use of a single adjustment factor, the model performance is considered to be acceptable.
- 6.45 There is a firm commitment to air quality mitigation. A delayed opening year to 2018 and a phased opening of the proposed development over three years to achieve 100% in 2020 would reduce the increases in traffic flows in 2018 and 2019 and consequently the air quality impact of the proposed development. In addition, there is inclusion of HGV emission controls from 2018, whereby only HGVs meeting the latest Euro VI emission controls are allowed to be used by the site operator. This means that from 2018 100% of site operator HGV and around three quarters of supplier HGV would meet Euro VI standards (assuming national fleet projections).
- 6.46 The air quality modelling undertaken by Arup is a pragmatic assessment of the likely impact on pollutant concentrations of the proposed mitigation measures. Based on the scenarios included in the operational assessment the final model results ('with mitigation' residual impacts) show that:<sup>49</sup>

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<sup>46</sup> CD7.3 section 6 details the assumptions and approach.

<sup>47</sup> CD7.4

<sup>48</sup> CD7.4 paragraphs 1 to 14 outline the chronology of the review process for the original air quality assessment and the agreement between the parties on the methodologies. CD1.43 Chapter 8.0A is the replacement chapter in the ES on air quality.

<sup>49</sup> CD1.43 Chapter 8.0A paragraphs 8.102 to 8.112 detail the model results and assesses their significance.

- In 2018 there are two exceedances of the annual mean nitrogen dioxide (NO<sub>2</sub>) air quality standard with the proposed development (one receptor close to the westbound slip road off the M4 and another receptor along the A4 London Road);
  - There are no air quality exceedances for 2019 and beyond;
  - Increases in concentrations with the proposed development are at most 'small' (change band of 0.4 to 2 ug/m<sup>3</sup>) in all years considered;
  - The maximum increase in annual mean NO<sub>2</sub> concentrations by the proposed development is predicted to be 0.5 ug/m<sup>3</sup> in 2018 and 1.1 ug/m<sup>3</sup> in 2020;
  - There are no moderate adverse or substantial adverse impacts;
  - Slight adverse impacts remain at a few receptors along the A4 London Road close to the junction with Sutton Lane in 2018 and beyond.
- 6.47 Based on the firm commitment to air quality mitigation, a new exceedance does not result, including within an AQMA. The proposed development would not significantly worsen air quality because changes are small and impacts are slight adverse at most. It would worsen an existing problem in 2018 only and at two receptors only.
- 6.48 On the basis of the modelling in the ES Addendum and the information available to date, the issues with the robustness of the air quality assessment leading to refusal number 7 have been addressed. Subject to the necessary mitigation being secured through the section 106 agreement the Council's objection in relation to air quality has been overcome.

### *Dust impacts*

- 6.49 In addition to the aspects of air quality covered in the statement of common ground, an assessment of construction dust impacts was undertaken in accordance with the qualitative approach described in the Institute of Air Quality Management guidance 2014<sup>50</sup>. Consideration was given to each dust generating activity, the sensitivity of the area and site specific mitigation. Effects considered were annoyance due to dust spoiling, harm to ecological receptors and the risk of health effects due to a significant increase in particulate matter (PM<sub>10</sub>). Taking into account the dust emission magnitude and the sensitivity of the area, the site was classified as low risk to dust soiling and human health for all dust generating activities at worst during any one phase of construction. Mitigation measures would be included in the CEMP and would cover general and site management, site maintenance, operating vehicles and machinery, operations, waste management and monitoring. Implementation of the mitigation measures would result in negligible residual effects.

## **7. THE CASE FOR THE APPELLANT<sup>51</sup>**

- 7.1 The starting point for the assessment of the application, as explicitly required by Government policy, is that there is a compelling need for development of the

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<sup>50</sup> CD1.43 Chapter 8.0A

<sup>51</sup> GLD/IQ/34 has provided the framework for reporting the gist of the Appellant's case, supplemented by the inquiry documents and oral evidence.

national networks – both as individual networks and as an integrated system. The Government also has concluded that there is a compelling need for an expanded network of SRFIs at a wide range of locations.

- 7.2 SBC's position fails to recognise these clear statements of Government policy, which are justified by the core drivers that represent the Government's view of sustainable development and growth. Maintaining the status quo (SBC's position) is not a viable option.
- 7.3 The harms and benefits of the proposed development must be balanced within this policy context. There is a compelling need for an expanded network of SRFIs, there is a particular challenge in expanding rail freight interchanges serving London and the South East and no-one has identified any further potential SRFI site outside the Green Belt capable of serving the markets in question. The one SRFI promoted in the South East outside the Green Belt – KIG at Maidstone – was found by the Secretary of State to be too near to the Channel and yet too far from London to function as a SRFI<sup>52</sup>. The SRFIs permitted to date by the Secretary of State at Howbury (now lapsed) and at Radlett are in the Green Belt. The obvious conclusion is that the optimum locations for SRFIs are on the intersections of the M25 with key rail and road routes into and out of London and these are in the Green Belt.

### **The Green Belt**

- 7.4 Government policy on the Green Belt is set out in the Framework and is reiterated in the NPS but with a recognition that promoters may find (as here) that the only viable sites for meeting the need for regional SRFIs are on Green Belt land. The Government has emphasised the importance of protecting Green Belt land (e.g. from housing development) but the policy itself and the fundamental test of very special circumstances has not been changed in any way.
- 7.5 The Appellant recognises that the Government attaches great importance to Green Belts and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. However SRFIs are inevitably and by definition necessarily large scale developments inherently inconsistent with openness. It appears to be common ground that if a further SRFI is needed as part of the network to serve London and the South East then inevitably it will be within the Green Belt.
- 7.6 The Council relies on the permission granted for Radlett but is wrong to contend that Radlett is an alternative to SIFE. That being so, the Council accepts that there are no known sites in addition to Radlett where the compelling need for a network could be met other than SIFE.

### *Openness*

- 7.7 The development of a SRFI on the site will have a direct physical impact upon its openness and the actual harm would be characterised as significant. The extent of the effect will reflect the overall built development footprint of the three proposed warehouse units and the central intermodal area, a land take of

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<sup>52</sup> CD6.10 paragraph 37: "The policy support that the proposal might otherwise enjoy from the SRA's SRFI policy is significantly reduced on account of the site's distance from London and the M25".



some 42 ha. The effect on openness will be minimised by the compact footprint and efficient layout of the built development area. The remainder of the surrounding area, some 30.6 ha, will predominantly comprise the conserved and proposed landscape framework as detailed in the LGIS. The well considered design solution will maintain broad open areas within the site to the north and west, with reduced open areas to the site boundaries in the east and south. In conjunction with the existing Green Belt land beyond the site's boundaries this will maintain significant open land, particularly to the west and north, with the proposed built development area relating more to the existing industrial area, the Grondon incinerator and the sewage works to the east.

- 7.8 The scheme occupies a visually enclosed site with limited visibility between it and its surrounding context, as evidenced by the Zone of Visual Influence<sup>53</sup>. Also the defined heights of the buildings are modest for buildings of this nature. At 18.5 m maximum height the units will not project beyond the immediately surrounding framework of trees and other urban elements. For these two reasons the perceived effects upon openness will be notably less than the plan form might imply. The proposed development will have a limited effect on people's perception of openness from beyond the site boundary and it will not visibly stretch along the M4 or A4 or be seen filling an area of open space from all but a very limited number of surrounding positions.
- 7.9 The Green Belt in this broad location is interrupted and includes a series of built up areas excluded from the policy designation. This is not unusual or any different from the Green Belt in the wider context surrounding London and in particular the urban fringes and around the M25 corridor. Surrounding the site are many natural and other strong features that are appropriate and defensible boundaries, including the motorway corridors, Harmondsworth Moor Country Park and associated river corridors and the Biffa landfill site. The Green Belt context is not particularly sensitive or vulnerable.
- 7.10 This degree of harm to openness is inevitable if the compelling need for an expanded network of SRFIs at a wide range of locations is to be met and if (as is the case) the only sites to serve London and the South East are in the Green Belt. The SIFE scheme has been planned to cause tangibly less harm to openness, and the purposes of Green Belt, than the LIFE scheme which was considerably more extensive in its scale, building heights and spread of development. SIFE is of a similar scale to Howbury, while Radlett is considerably larger.

#### *Purposes of Green Belt*

- 7.11 SIFE will comprise a very well defined and contained development, immediately surrounded by existing and reinforced natural and enduring boundaries as part of the LGIS. The site has an existing industrial context to the east but it does not lie alongside any other existing built developments. The scheme is not adjacent to any larger built up area and it would not expand London or Slough, a matter of common ground with the Council. Consequently SIFE will neither constitute unrestricted sprawl nor lead to the potential for unrestricted sprawl and so there would be no harm to this purpose of the Green Belt. If, as the

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<sup>53</sup> GLD/4/C Appendix 13

Council maintain, the development would contribute significantly to unrestricted sprawl it is hard to see how any SRFI in the Green Belt could do otherwise.

- 7.12 SIFE would not cause London and Slough to merge nor contribute to their merger. The two would remain separate and distinct from one another, with SIFE causing neither to expand. As explained in Mr Jackson's evidence SIFE will introduce a discrete and well defined development into the Green Belt between Slough and London. The separation distance west of the scheme to Brands Hill will be reduced to approximately 660 m at its narrowest and more typically 800 m<sup>54</sup>. East of the built development area, the individual and cumulative widths will be significantly greater than those currently existing along the Slough – Colnbrook – Poyle corridor south of the site (around 40 m to 100 m). In addition, the SIFE built development areas will be contained by strong boundaries and enduring open landscaped areas to minimise the resultant effects. No significant harm will be caused to this purpose of the Green Belt.
- 7.13 The Council's assessment of significant harm results from regarding this part of the Green Belt as vulnerable and fragmented but the Green Belt is to be taken as it is found. Development proposals that may come forward in the future will have to be justified by very special circumstances. However vulnerable to development pressure this part of the Green Belt is and however fragmented it is, SIFE would not undermine this purpose of the Green Belt.
- 7.14 The site has components that constitute typical countryside features, such as grazed rough grassland, watercourses, tree belts and woodland. However, it is in an area of countryside that is in a declining and poor landscape condition. SIFE will inevitably result in encroachment on the countryside. Balanced against this, the proposal will also bring valuable and much needed benefits through conservation and creation of new habitats, woodland management, improvements to public rights of way and so on. The encroachment will be very effectively mitigated and any adverse effects will be largely localised and lessen over time. Similar to the effect on openness, the harm to the countryside has to be put into its proper context – it is inevitable that countryside will have to be built upon to begin to meet the compelling need for an expanded network of SRFIs to serve London and the South East.
- 7.15 The 4<sup>th</sup> and 5<sup>th</sup> stated purposes of the Green Belt do not arise. There are no historic towns of the type meant by the Framework (such as York or Bath). The proposed development will not undermine urban regeneration because there are no economically and commercially feasible brownfield sites to take the place of SIFE. The proposal may, however, indirectly assist urban regeneration as a consequence of economic and employment opportunities.

### *Summary*

- 7.16 The inappropriate development would by definition cause harm to the Green Belt. The actual harm to openness and to countryside purposes would be significant, whereas there would be little if any actual harm to purposes relating to sprawl and the merger of towns. The actual harm has been ameliorated and

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<sup>54</sup> GLD/4/B paragraphs 8.32 to 8.35 detail the distances which are shown on plan at GLD/4/C Appendix 16.

a functioning SRFI could not be delivered without causing any less actual harm than SIFE.

## **Strategic Gap**

- 7.17 The weight to be attached to the CS Strategic Gap policy, a spatial separation policy, depends on its degree of consistency with the Framework. The Framework is the culmination of a series of changes in the national planning policy context which have removed strategic gap designations from the series of constraints that can be considered when local plans are formulated<sup>55</sup>. The only spatial separation policy in the Framework is Green Belt policy.
- 7.18 The evolution of the policy in Slough shows the concept has been primarily utilised to inform local decisions regarding the location of housing within the Borough. No update has been made to the policy to reflect the changes in the national planning policy context. The Council's argument, that paragraphs 17(5) and 157 of the Framework permit different areas to have different roles, has no application to land already attributed a spatial separation role through its designation as Green Belt. There are no known other instances of a strategic gap being designated within the Green Belt. Applying a far higher bar of 'essential' over and above the very special circumstances test is fundamentally inconsistent with the Framework. Such a test does not apply to developments in areas designated as National Parks or Areas of Outstanding Natural Beauty. Furthermore, the "Strategic" Gap is no such thing because neighbouring authorities, where the bulk of the gap between Slough and Greater London lies, have no such additional policy. The High Court found the Strategic Gap policy to be a separate consideration in addition to Green Belt policy but did not provide a conclusion on the weight to be attached to the policy. That is a matter for the decision maker. For all the above reasons Core Policy 2, and any breach of it, should be given little if any weight.
- 7.19 Nevertheless, taking the Strategic Gap as an additional designation which applies to the site, Core Policies 1 and 2 seek to maintain the sense of separation between Slough and Greater London. The effect of the SIFE development on the Strategic Gap will be limited for the same reasons as applied to the merging of towns. Taking SBC's approach, the spatial separation policy designation necessitates an assessment of the perception as opposed to the actuality of coalescence. Mr Stimpson accepted that the development would not cause the loss of Slough's separate identity.
- 7.20 Core Policy 2 is a local policy to determine the location of development within Slough Borough. No alternative sites have been identified within the Borough, a matter of common ground with SBC. The SIFE proposal meets the 'essential to be in that location' test. Even if the test is to be applied across a wider geographical area the proposal would still meet the test. SBC agrees that there are no alternative locations inside or outside the Strategic Gap that could accommodate the SIFE proposals in close proximity to the GWML and the west London area. Moreover, in principle the SIFE proposal is an essential form of development to the extent that the compelling need for a network of SRFIs to serve London and the South East is well established through the national policy context.

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<sup>55</sup> GLD/3/B paragraphs 6.5 to 6.47 consider the evolution of the Strategic Gap policy in detail.

- 7.21 Even if Core Policies 1 and 2 are given full weight, their underlying aim to maintain the perception that Slough is not part of Greater London would not be harmed significantly or at all.

### **Colne Valley Park**

- 7.22 The 'essential to be in that location' test in Core Policy 2 applies to the Colne Valley Park. Similar arguments arise as with the Strategic Gap. The objectives of the Colne Valley Park are covered by specific passages of policy in the Framework associated with provisions on landscape protection, biodiversity, recreation and rural development. There is no indication that a higher order test should be applied. The Colne Valley Park extends over a considerable area and no other authority covering that area considers the test appropriate or necessary. The policy is inconsistent with the Framework and should be given little if any weight.
- 7.23 Colne Valley Park occupies a landscape tract that is extensive and very varied. Within its extents are not only country parks, nature reserves, lakes and watercourses but also housing, industrial and commercial estates and large scale transport infrastructure. Careful consideration and attention has been given to the effects of the SIFE proposal upon the countryside and the recreational opportunities promoted by the Colne Valley Park. These matters have fully informed the resultant layout and design and particular regard has been given to the objectives of the Colne Valley Park, the beneficial uses of Green Belt and other relevant guidelines and green infrastructure strategies. It is important to recognise that the appeal site is private land and the only public access is confined to the public rights of way. The proposed development offers the opportunity to reverse the declining condition of the landscape features, to secure funding for the management of Old Wood and to support off-site environmental initiatives.
- 7.24 The LGIS contains a significant package of on-site and off-site landscape and environmental works with the aim of delivering and sustaining significant landscape, biodiversity, public access and related proposals. Connectivity is a particularly important issue in view of the location of the site in an area containing major transport corridors and large scale urban development. To promote the wider objectives of the Colne Valley Park, a series of measures are secured by the planning obligation to promote the use of other areas of public land in the vicinity. These proposals include not only enhancements to public rights of way but also improvements to habitats, access and interpretation facilities<sup>56</sup>. The proposals were drawn up in close consultation with the Colne Valley Park Community Interest Company (CIC) and other relevant bodies. The comments from the Ramblers Association and Natural England were supportive<sup>57</sup>.
- 7.25 The nature of the objections was shown to relate primarily to the impact of the development on users of the public rights of way across the site, not the impact on landscape character or appearance<sup>58</sup>. Close evaluation shows that the site has ongoing access issues and the public rights of way are in poor condition and

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<sup>56</sup> GLD/4/C Appendix 11 Landscape and Green Infrastructure Proposals and Opportunities Plan

<sup>57</sup> CD2.1 paragraphs 6.29 and 6.31 and also in CD9.1

<sup>58</sup> Cross examination of Mr Stimpson and Mr Nye. Rights of way are shown on GLD/4/C Appendix 7.

not as well used as perceived<sup>59</sup>. To the south, the A4 provides a barrier to the use of the Colne Valley Way and there is no safe crossing.

- 7.26 The LGIS and associated proposals will deliver substantial improvements. Safe, legible and managed publicly accessible routes will be created round the site<sup>60</sup>. They will connect with all existing public rights of way and will extend beyond the site. There is provision for an off-roadway and cycleway connection along the A4 Colnbrook Bypass and a bridleway crossing of the Old Slade Lane overbridge, subject to any necessary agreements and reinstatement after the M4 Smart Motorway works. The Colne Valley Trail and the public rights of way along the eastern perimeter of the site will be maintained along their existing alignments. New sympathetic surfacing adopting best practice specifications, coordinated signage, interpretation, access control measures and gateways will all significantly improve the current provision. An important aspect will be to improve the feeling of safety and security in using the routes.
- 7.27 The SIFE proposal will be visible from a short arm of the Colne Valley Trail approximately 1 km along the eastern and southern part of the site and effectively contained between the M4 overbridge and the A4 Colnbrook Bypass. From the M4 overbridge the SIFE scheme would be readily visible from the elevated viewpoint<sup>61</sup>. The height of the units would relate to the surrounding trees and woodland whilst the lower and more active parts of the scheme would be hidden from view. There would be no dramatic visual change when the wider context of the motorway infrastructure and traffic and other urban elements are taken into account. South of the overbridge the restricted views would be fully obstructed by the intervening sewage works and surrounding planting. The clearest views from the Colne Valley Trail would be from along the eastern edge of the site. The proposed mounding, screen fencing and woodland planting will visually screen lower level views towards the built development and importantly hide views towards the active service yards and lorry park<sup>62</sup>. The Colne Valley Trail will pass through a strongly landscaped green corridor, not markedly different from other existing stretches of the Colne Valley Trail to the north of the site, which also have a mix of green areas and built development.
- 7.28 There is no justification to the assertion that the proposed development will sever the Colne Valley Park. The Colnbrook – Poyle corridor of built development and the motorways and major roads within the vicinity of the site present existing and greater obstacles within this part of the Park. The proposals will address some of the existing issues and will improve connectivity. The scheme will bring about the desired ambitions of upgrading and extending the path network, particularly between north of the M4 motorway and the A4 Colnbrook Bypass. The conservation and management of habitats and enhancement of green spaces will further strengthen landscape and wildlife corridors and contribute towards the wider benefits of the Park to wildlife, the landscape and the local communities.

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<sup>59</sup> GLD/4/B paragraphs 6.26, 6.27, GLD/4/D paragraphs 1.40 to 1.59

<sup>60</sup> GLD/4/C Appendix 12

<sup>61</sup> GLD/4/C Appendix 15 Photomontage 6

<sup>62</sup> GLD/4/C Appendix 15 Photomontage 3

- 7.29 SBC, through Mr Stimpson's oral evidence, acknowledged that if there is a need for the SRFI the Appellant has done all that could be reasonably expected in providing the LGIS and off-site measures. Mr Nye for the CIC took a similar view. Whilst there would be some harm to the Park the enhancements that the LGIS would bring would mean that in overall terms the proposals would be of net benefit to the Colne Valley Park and its objectives.

### **Landscape character and appearance**

- 7.30 The appeal site is not subject to any landscape designation at any level of policy. The published landscape character assessments<sup>63</sup> recognise the diverse nature of the landscape context of the site, comprising significant settlement areas, industry, reservoirs, minerals sites, sewage treatment works, rivers and numerous transportation corridors. The site is in an area where the landscape has a weak character and where the condition of the landscape is declining due to the fragmentation and marginal nature of the remaining agricultural land.
- 7.31 The loss of the open rough grassland and its replacement with new large scale buildings and rail infrastructure will have a significant effect on the landscape character of the site. However, the scheme allows for the conservation of other open space and the majority of the mature trees and woodland, extensive new planting, creation of habitats and appropriate management regimes. These measures will moderate and reduce the overall localised landscape effects. The natural enclosure afforded to the site will limit the influence of the proposed development. Beyond its immediate context any landscape effects will be no more than minor adverse. The surrounding large scale industrial and transport infrastructure contribute to the lessening of the broader landscape change and effects.
- 7.32 Visually, the development will only be seen from a small proportion of the surrounding landscape and settlement areas. The zone of visual influence confirms how well concealed the proposals will be in this urban fringe context as a result of the containment by topography, planting, surrounding industry and infrastructure. Despite its large scale the proposed development will not be seen from the majority of settlement areas and properties in all directions surrounding the site. In the localised views from transport corridors large scale industrial development is characteristic and one's appreciation of the scheme will be brief. The only notable visual effects will occur for the users of the public rights of way within the site boundary. Views will become more enclosed yet over time will be increasingly influenced by the existing and maturing proposed planting and habitats. The quality of the rights of way themselves will be considerably enhanced.
- 7.33 In summary, there would be some harm to landscape character and appearance but in overall terms the impact of the appeal proposals would be of net benefit as a result of the enhancements achieved through the LGIS.

### **Highways**

- 7.34 A statement of common ground with SBC in its capacity of highway authority confirms that no highway objection is raised, subject to the proposed mitigation.

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<sup>63</sup> GLD/4/C Appendix 2

This is also the confirmed position of Highways England in relation to the strategic road network and TfL who is responsible for the A4 route immediately to the east of SBC's administrative boundary<sup>64</sup>.

- 7.35 The agreed mitigation measures will accommodate the traffic associated with SIFE. The proposals were assessed rigorously on a nil detriment basis. As a result each of the assessed junctions will perform better than in the do minimum scenario and traffic along the A4 will flow more freely. Measures will also assist in promoting sustainable travel to the site through improvements to facilities for pedestrians and cyclists, bus services and bus infrastructure.
- 7.36 The objections and concerns of interested parties have been considered in detail<sup>65</sup>.

*Additional HGV traffic on local roads*

- 7.37 It is acknowledged that business and industrial estates make use of local roads and that this may be a problem for residents. The Transport Assessment indicates that the proposed development could generate 1,615 two way HGV movements per day<sup>66</sup>. The advantage of SIFE is that it is extremely well located to make use of the strategic highway network. The identified preferred routes are via the A4 Colnbrook Bypass west to the M4 and M4/M25 northbound or east to A3044/Airport Way and the M25 southbound<sup>67</sup>. There will be a strong incentive for HGV drivers to use these routes. Potential routes using the local roads to the north of the M4 through Richings Park and Iver have physical restrictions in the form of low bridges and a weight restricted hump-backed bridge that rule out their use by HGVs<sup>68</sup>. An alternative route to the M40/M25 would take about twice as long as the direct A4/M4/M25 route and would only be used in an emergency<sup>69</sup>.
- 7.38 Nonetheless, a planning obligation requires a Freight Development Plan to be put in place that will be the mechanism for monitoring and enforcing the preferred routeing strategies for traffic associated with the development<sup>70</sup>.
- 7.39 Similar points apply to concerns about the use of Colnbrook High Street. The High Street would be a less direct route and of no advantage to HGV drivers serving SIFE. A severe 3.5 tonne weight restriction at its western end provides additional protection. The scheme also will provide traffic signals on the A4 at the main site access which will platoon traffic and lead to a significant improvement in traffic flow. Therefore it is difficult to see what drivers of light vehicles would gain by rat running along the High Street. Consequently there is no justification for the development to fund a number plate monitoring system.

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<sup>64</sup> GLD/9/C Appendices ND1 and ND2

<sup>65</sup> GLD/9/B especially sections 2.0 to 7.0

<sup>66</sup> CD1.43 paragraph 10.59

<sup>67</sup> GLD/IQ/24. It has been agreed to route HGV traffic to the motorway network via junction 14 of the M25 between 2300 and 0500 hours in order to reduce the environmental impact of HGVs on the A4 in the Brands Hill area (CD7.3 paragraph 2.5.5).

<sup>68</sup> GLD/IQ/25 illustrates the potential routes and the location of the restrictions.

<sup>69</sup> GLD/IQ/25 – see the orange route (Sutton Lane, North Park Road, Thorney Lane to Wood Lane). Mr Downes gave an estimated journey time of 19 minutes compared to 9 minutes via the A4/M4/M25.

<sup>70</sup> PO/GLD Schedule 2 Part VI and CD1.42, especially paragraphs 5.15 to 5.17.

This conclusion is supported by the findings from traffic counts and survey work carried out in 2010<sup>71</sup>.

- 7.40 Denham Parish is crossed by several principal roads. The A40 and A4020 give access to Greater London but would not form the most direct route from SIFE for most journeys. None of the other roads serve major destinations that would not be more directly served via the M40 or the M25. A very small number of HGVs from SIFE may use these roads to make deliveries in the specific area but the need for such deliveries would not arise from the presence of SIFE.
- 7.41 The A355 east of Beaconsfield would not appear to be a route that many vehicles to or from SIFE would use. It is difficult to visualise HGVs routing to and from SIFE using the A355 unless they are making deliveries in the Beaconsfield area.
- 7.42 Additional traffic in Iver, Richings Park and Denham Parish associated with staff travel is likely to have a negligible impact when account is taken of employment data, shift patterns and the effects of the Travel Plan<sup>72</sup>. The Transport Assessment forecasts that only 0.8% of light vehicle trips to or from the site will use Sutton Lane and most of the 10.2% using London Road north west of Junction 5 will originate in Slough<sup>73</sup>. Significantly Buckinghamshire County Council agreed in 2011 that the effect of SIFE related traffic on the County's road network could be appropriately controlled through the Travel Plan measures and HGV routing agreements. No representations were made as a result of the most recent consultation.
- 7.43 Therefore the effects of SIFE on road congestion and environmental problems in the Iver – Richings Park area and Denham Parish and on the A355 east of Beaconsfield will be minimal and indistinguishable from the general growth in road traffic. The minimal level of additional traffic flow on this part of the road network would not justify rejection of the proposal under the terms set out in paragraph 32 of the Framework, which states development should only be prevented or refused on transport grounds where its residual cumulative impacts are severe.

#### *Traffic and congestion*

- 7.44 The estimated daily trip generation of SIFE is 3,230 HGV movements and 3,577 light vehicles (including cars). The total trip generation, 6807 vehicles, has been taken into account in evaluating the impact of SIFE. The use of more up to date trip rates account for the smaller number of light vehicle trips than in the earlier forecasts for the LIFE proposal. Two new junctions designed to current highway standards will provide access to the development from the A4 Colnbrook Bypass. The western access has been shown to have adequate capacity for its purpose and the eastern junction in the form of a slip road will not cause any delays to traffic. The exiting of vehicles from SIFE will be controlled by traffic signals and therefore the development will not lead to irregular movement of lorries onto the Bypass.

<sup>71</sup> GLD/9/B paragraphs 2.2.4 and 2.2.5 and GLD/9/C Appendix ND3.

<sup>72</sup> GLD/9/B paragraphs 3.11 to 3.19 consider the issues in detail.

<sup>73</sup> CD1.21 Table 8.4



7.45 The Bypass will be widened in the vicinity of the new junctions. Modelling has shown that the Bypass has adequate capacity and no additional widening will be necessary. It is at junctions that delays may be expected and improvements are proposed to compensate for the impact of SIFE. Many of the junction improvements are substantial. At all junctions where works are proposed fewer delays are forecast than if the appeal proposal is not built.

#### *Cumulative impacts<sup>74</sup>*

7.46 The assessment of cumulative effects is based on the principle that only schemes that can reasonably be presumed to go ahead and for which sufficient information is available are taken into account. The relevant schemes were agreed with SBC and subsequently WRATH and the M4 Smart Motorway scheme are addressed in the ES Addendum update.

7.47 There are considered to be two potential implications of the M4 Smart Motorway scheme, the first relating to flows on the A4 Colnbrook Bypass and the second being the operation of M4 Junction 5. The Transport Assessment documents how traffic was observed diverting from the M4 motorway onto the A4 to avoid delays in the eastbound direction. Implementing the M4 Smart Motorway measures will lead to such traffic reverting to the Motorway. Highways England referred to the scheme having a net positive impact upon surrounding roads. In respect of M4 Junction 5, the modelling of traffic flows for SIFE and the agreed mitigation for Junction 5 was based on higher flows than predicted in the M4 Smart Motorway scheme. Therefore the forecasts of the impact of the appeal proposal on local traffic are robust enough to allow for the impact of the M4 Smart Motorway scheme.

7.48 The traffic associated with WRATH is not expected to be significant either during construction or operation. A similar finding applies to the relocation of the Heathrow Express Depot to Langley<sup>75</sup>. A proposed biomass recycling site, referred to by Iver Parish Council, will have little or no impact on traffic flows in the area of the appeal site.

7.49 SIFE and the proposed third runway at Heathrow would be mutually exclusive and therefore the question of in-combination effects does not arise.

#### *Objection by London Borough of Hillingdon*

7.50 The capacity analysis of the western access junction serving the development site gives confidence that the design has sufficient flexibility built in to adequately serve the SRFI well into the future. There should be no need to upgrade the eastern slip road access to a full interchange.

7.51 In the PM peak 1,810 two way vehicle movements currently pass the site on the A4 Colnbrook Bypass. The total two-way capacity is estimated at 2,433 vehicles per hour, well in excess of the observed present day flow. The 2020 forecast two way flow with SIFE on the same section of road is 2,171 vehicles in the AM peak and 2,131 vehicles in the PM peak, still comfortably within the

<sup>74</sup> GLD/9/B section 2.4 sets out the reasoning in full.

<sup>75</sup> The relocation of the Heathrow Express Depot to Langley and WRATH are considered in the highways statement of common ground (CD7.3 sections 7.2 and 7.3) and reported in paragraphs 6.40 and 6.41 above.

capacity of the road. SBC has not indicated any concerns about the link capacity of this section of the A4.

- 7.52 The A4/A3044 Stanwell Moor junction is the responsibility of TfL. The junction will be over capacity in the 2014 and 2019 peak periods even without the proposed development. TfL is satisfied that works similar to the proposed signal improvements and at grade modifications will effectively mitigate the additional traffic generated by SIFE.
- 7.53 Very small increases in the number of light vehicles are forecast on the A4 east of the A3044 Stanwell Moor junction as a result of SIFE. They are likely to be imperceptible as they are less than the existing day to day variation. SIFE will not bring about any noticeable change in HGV traffic flows on that section of the A4 because it is likely that locations in that part of London are already being served in a similar manner and will continue to be so served even if SIFE is not built.
- 7.54 The coincidence of shift change times at SIFE with those of some Heathrow workers, especially at 0600 hours, was not seen as a matter of concern by Heathrow Airport Ltd. Background traffic is significantly lower at this time than the peak periods used for the traffic modelling. Total traffic flow (including SIFE and Airport traffic) around 0600 hours is significantly lower than at the peak periods adopted for the traffic modelling.
- 7.55 The modal split of trips to and from SIFE were informed by 2001 Census data and adjusted to take account of an improved bus service and experience of car sharing at warehouse developments. They do not take account of the implementation of the travel plan. Trip generation forecasts were based on data from the TRICS database and surveys carried out at large warehouses. The forecasts of vehicle trips generated by SIFE are therefore empirically based and realistic.
- 7.56 A greater use of sustainable travel modes in Hillingdon is not surprising as the Borough is better served by public transport compared to the appeal site in an edge of town location. The scheme shows a commitment to promoting sustainable travel through the provisions of the Framework Travel Plan. Furthermore, a contribution will be made towards the provision of a shared footway and cycleway along the north side of the A4 Colnbrook Bypass between the proposed development and Sutton Lane to link with the existing shared facility towards Slough town centre. Improvements will also be made to the path linking Colnbrook Bypass with Mill Street. Therefore cycle facilities through Colnbrook and on the more direct route to Slough will be enhanced.

### *Conclusion*

- 7.57 Highways and traffic considerations do not give rise to any harm.

### **Air quality**

- 7.58 As a result of the further work undertaken SBC has withdrawn its holding objection. To the extent that any harm should be entered under the heading 'any other harm' it would be limited.

## **Benefits of the scheme**

### ***Need for additional SRFI at SIFE***

- 7.59 The NPS sets out explicit guidance on what constitutes a SRFI. SIFE meets the requirements and the appeal site has the necessary attributes. No other site has been identified that is capable of accommodating the proposed development in the West of London area or in close proximity to the GWML or to serve London and the South East. The NPS references the record of failure to date to deliver SRFIs in the region.
- 7.60 The compelling need for an expanded network of SRFIs in a wide range of locations is stated clearly, emphatically and repeatedly in the NPS<sup>76</sup>. This application is precisely the form of and location for SRFI development for which the NPS has set out and identified a compelling need. The NPS is the bedrock of the case for SIFE.
- 7.61 The NPS is entirely consistent with the Framework, which encourages the development of strategies for the provision of viable infrastructure necessary to support sustainable development, including large scale facilities such as rail freight interchanges.
- 7.62 An analysis of the evolution of national and regional policy from 2000 to 2011 shows a need was established for 3 to 4 SRFIs to serve London and the South East, focussed on locations where key road and rail radials intersect the M25<sup>77</sup>. This need was first confirmed in the Strategic Rail Authority's (SRA) SRFI Policy March 2004. Policy evolved further with the Department for Transport (DfT) SRFI Policy Guidance published in November 2011. One of the important new provisions was the focus on the need for a network of SRFIs.
- 7.63 With the designation of the NPS, the SRA policy guidance of 2004 and the DfT SRFI Policy Guidance 2011 were cancelled. The stated compelling need for an expanded network of SRFIs has replaced the previously identified need for 3 to 4 additional SRFIs to serve London and the South East<sup>78</sup>. SRFI capacity is now needed at a wide range of locations. The identified need for additional SRFIs to operate as a network, especially in London and the South East, is based on Government policy objectives and rail freight forecasts considered to be robust and accepted by Government for planning purposes. The NPS cannot be characterised as a weakening of Government support for SRFIs to serve London and the South East.
- 7.64 More specifically, intermodal rail freight has grown over the past decade both in terms of the overall volume of cargo moved and its inland market share, whereas road traffic has lost market share and remained flat in terms of volumes. The national rail freight demand forecasts show a continuation of these trends over the long term. Intermodal rail freight is forecast to grow from

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<sup>76</sup> GLD/IQ/34 paragraphs 61 to 63 identify the relevant paragraphs in the NPS and draw attention to the structure of the NPS in so far as it sets out the Government's explanation of the basis upon which the compelling need has been identified. See also GLD/3/B paragraphs 4.5 to 4.37 for a review of current strategic policy evolution.

<sup>77</sup> GLD/3/B paragraphs 5.3 to 5.49

<sup>78</sup> GLD/3/D paragraph R2.6d. This position is confirmed in GLD/3/D Appendix R1 and CD3.6 paragraph 1.6.

6.4 billion tonne-km in 2012 to 42.9 billion tonne-km in 2043, a growth of 6.1% annually on a compound basis<sup>79</sup>. Domestic intermodal rail freight (mainly goods moved between distribution centres) is forecast to have the highest growth rates within the intermodal sector.

- 7.65 A principal driver behind the large growth rates forecast for the intermodal sector is an expansion in the amount of distribution centre floor space which is located on rail served sites. The forecasts assumed an additional 10 million m<sup>2</sup> of new rail served floor space nationally up to 2033. The SIFE site was included in the list of assumed rail served warehousing schemes (the one scheme in the GWML eastern area cluster). If the level of warehousing assumed in the forecasts does not transpire, the forecast overall growth rate in rail-tonnes lifted to 2033/4 would actually fall from a rate of 1.7% per annum to 0.7% per annum, reducing forecast growth to just 16% and not the 45% forecast with new rail served warehousing<sup>80</sup>. There will be a corresponding increase in road freight traffic as a result. Therefore the rail freight demand forecasts demonstrate at the national level that promoting a greater level of rail served warehousing is likely to enhance rail's competitive position and generate an increase in rail freight traffic in terms of tonnes-lifted and market share. Individual sites must be considered as part of a network in order to achieve the level of freight forecast by the NPS<sup>81</sup>.
- 7.66 SBC's case fails to deal with the core policy that the Government now has in place in the NPS and provides no answer as to how the need stated in the NPS can be met by reliance on the status quo of provision within the South East as it was at the date of designation. By that time Radlett had been permitted and even when operational, a single SRFI serving London and the South East cannot fulfil the requirements stated in the NPS. London Gateway is not a SRFI. The NPS says it will increase the need for SRFI development to reduce the dependence on road haulage to serve the major markets<sup>82</sup>. SIFE, because of its excellent location, will generate new rail traffic, as anticipated by Mr Ives. DP World London Gateway considers SIFE to be ideally suited to support triangulation rail operations between London Gateway, SIFE and key Midlands SRFIs such as DIRFT and Hams Hall<sup>83</sup>.
- 7.67 Aspects of the Council's case fly in the face of the NPS and do not provide a sound basis for a decision on the proposed development. Firstly, the pivotal point of the Council's argument is that in his decision to permit Radlett the Secretary of State found implicitly that there was the need for only one SRFI in the north west sector, such that SIFE must necessarily be refused permission. The Council misinterpreted the decision and no such conclusion was reached. Even if it was, it would be open to SIFE to rely upon the NPS which was designated some months after the Radlett decision in which 'perpetuating the status quo' is described as 'simply not a viable option'<sup>84</sup>.

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<sup>79</sup> GLD/5/B Table 3.2 page 11. Figures derived from Network Rail Freight Market Study 2013.

<sup>80</sup> GLD/5/B paragraph 3.21

<sup>81</sup> This reflects Mr Hatfield's response in re-examination to the logic of considering each site individually. This issue was explored with him in cross examination – see SBC/IQ/15 paragraph 8.11 for the Council's argument and context.

<sup>82</sup> CD3.6 paragraph 2.48

<sup>83</sup> GLD/7/C Appendix 7

<sup>84</sup> The detailed reasoning is set out in GLD/IQ/34 paragraph 72.

7.68 The need for SFRIs to serve London and the South East cannot be met by the Radlett proposal alone. The two developments are not competitors. It is common ground with Helioslough that there is scope for more SRFI capacity to be developed in addition to Radlett and that there is scope for more than one SRFI to be developed within the north west sector<sup>85</sup>. Specialist reports concluded that the SIFE and Radlett proposals would serve different markets and be complementary. Network Rail has consistently stated similar conclusions. The weight of the evidence shows that SIFE and Radlett are not mutually exclusive alternatives but are able to be accommodated on a complementary basis within a network within the current planning policy context<sup>86</sup>.

7.69 Secondly, the Council draws support from the LIFE decision of more than 13 years ago. The policy position is now entirely different. The Government has published a specific policy to be applied to SRFI applications, establishing the 'compelling need' for additional SFRIs that was found lacking in LIFE. The balancing exercise carried out also provides no assistance at all because the LIFE inquiry considered a different scheme, a different site and surroundings. SIFE must be assessed on its own merits in the current policy context<sup>87</sup>.

### ***Compliance with SRFI site selection criteria***

7.70 The site has been identified as a potential location for a SRFI for more than 10 years and is positioned close to where key road and rail radials, the M4 and GWML, intersect the M25<sup>88</sup>.

### ***Rail connectivity and location***<sup>89</sup>

7.71 The site will be served by the GWML, one of the strategic freight network's (SFN) core routes. The routes through Greater London on which SIFE would rely all form part of the SFN. They have sufficient gauge clearance and have been subject to a number of recent upgrades to enhance freight usage. In fact all the major routes serving the site from the key cargo origins will be cleared to at least W9 loading gauge, exceeding the minimum requirement of W8 specified in the NPS.

7.72 Sufficient freight capacity to serve the rail use at SIFE will be available. As part of Network Rail's Long Term Planning Process, the demand forecasts from the Freight Market Study were used to establish long term requirements in terms of network capacity and capability. The forecast train paths required from each link included demand to and from SIFE in the GWML eastern area intermodal regional cluster. The work was developed in the Western Route Study. The final version of the study concludes that 2 x Class 4 paths per hour (for intermodal traffic) would be provided from the 2019 timetable onwards<sup>90</sup>. The

<sup>85</sup> CD7.9 paragraphs 1.23 to 1.26

<sup>86</sup> GLD/3/B paragraphs 5.55 to 5.81 set out the arguments in detail.

<sup>87</sup> The detailed reasoning is set out in GLD/IQ/34 paragraphs 73 to 74

<sup>88</sup> GLD/3/B paragraphs 3.13 to 3.55

<sup>89</sup> GLD/5/B paragraphs 5.1 to 5.43, GLD/5/D paragraphs 18 to 27 and GLD/IQ/34 paragraphs 76 to 80.

<sup>90</sup> CD7.8 paragraphs 1.3 to 1.15 is the agreed position between the Appellant and Network Rail, GLD/5/B paragraphs 5.18 to 5.36 is Mr Hatfield's evidence on the matter, GLD/5/C Appendix 2 is the draft 2019 relief lines, timetable and GLD/IQ/18 is an update as a result of the Western Route Study final version published in August 2015.

position with respect to intermodal traffic has not changed since the 'draft for consultation' version of the study. The 9 x Class 4 paths (intermodal) to the Slough Intermodal cluster remain for 2043. Any extra capacity required is for construction materials after 2023.

- 7.73 TfL, after receipt of additional information, confirmed that it has no objections concerning capacity. Some concerns were expressed about practical deliverability, which is understood to mean the ability to incorporate specific freight paths to/from the appeal site into an actual working timetable alongside Crossrail and other services. Consideration of the development of the 2019 GWML timetable demonstrates that any practical deliverability issues have been overcome<sup>91</sup>. Similarly the relocation of the Heathrow Express maintenance depot to Langley will have no impact on day time off-peak capacity on the GWML. This is because train movements into or out of Langley Depot would be at night when passenger train operations are being reduced, withdrawn or not operating, resulting in spare freight capacity.
- 7.74 Freight train operations to the site from all main markets are direct, offering excellent levels of operational flexibility without the need to reverse or use a long circuitous route. Regarding SBC's concern, a significant level of rail borne cargo is unlikely to travel eastbound along the GWML to arrive at SIFE. This is because of the proximity of Southampton, the particular role of Avonmouth docks and the dominant freight use of the GWML for transporting aggregates. For those trains that do arrive from the west, a reversing manoeuvre is able to be accommodated at West Drayton or Wembley freight yard<sup>92</sup>. Network Rail is enhancing diversionary freight routes from the ports away from London to release capacity of the via London routes for freight growth to destinations which have to pass through London (eg Felixstowe to SIFE). The North London and Tottenham to Hampstead lines have recently been upgraded to provide additional cross London capacity. Paths from the Channel Tunnel to Wembley are essentially guaranteed under the Treaty of Canterbury<sup>93</sup>.
- 7.75 Network Rail is highly supportive of SIFE, having considered the rail connectivity of the scheme, the capacity issues and other rail projects coming forward. Moreover, progressive enhancement of the SFN, both in terms of capacity and capability, is proposed that will aid freight train operations to and from SIFE<sup>94</sup>. The view of DB Schenker Rail is that Colnbrook is well situated on the network to serve domestic, deep sea and European intermodal traffic and there is no doubt the network will have the necessary capacity<sup>95</sup>.
- 7.76 Overall the rail freight connectivity of SIFE should be described as excellent.

#### *Location and the market*

- 7.77 London and the South East is the UK's largest consumer market and at present there is not a single operational SRFI serving it. Much of the existing logistics warehousing is not located near to the markets they serve, leading to longer

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<sup>91</sup> GLD/5/B paragraphs 5.26 to 5.31 and GLD/5/C Appendix 6 consider this matter in detail.

<sup>92</sup> This is explained in detail at GLD/5/D paragraphs 20 to 23.

<sup>93</sup> GLD/5/D paragraph 24

<sup>94</sup> CD7.8, where Control Period 5 enhancements are detailed at paragraphs 1.18 to 1.21.

<sup>95</sup> GLD/8/B paragraphs 27 to 31

than necessary road journeys from warehouses to destinations in London and the Home Counties<sup>96</sup>. SIFE is intended to operate as a regional distribution centre to serve the West of London market<sup>97</sup>.

- 7.78 Inbound traffic to the proposed SRFI will be sourced nationally and internationally. Demand is fuelled by a long term shift towards consumer goods being made overseas and imported. SIFE will be able to receive freight arriving through deep sea ports such as Felixstowe, London Gateway, Tilbury and Liverpool, as well as from Mainland Europe via the Channel Tunnel. For domestic suppliers in the M62 corridor and Scotland, use of rail via intermodal terminals in those areas is likely to be competitive because of the distance. Rail-borne cargo is expected from the SRFIs in the Midlands from existing sites such as Hams Hall and DIRFT and in the future from new developments at DIRFT III, Kegworth and Etwell. Whilst difficult to quantify precisely, it is evident that a substantial proportion of freight carried to the Midlands is actually destined for delivery to the south<sup>98</sup>. Many existing intermodal terminals are relatively small in size and can handle a limited number of shorter trains. Several in the Midlands, such as Hams Hall and DIRFT, together with Wakefield in Yorkshire are already at or very close to capacity. The rail freight industry needs new interchange facilities particularly in locations close to final markets, to fill the clear gaps in coverage capacity and capability. The main line rail routes and the exceptionally high standard of rail connectivity demonstrate that SIFE will be linked to the key rail supply chain routes<sup>99</sup>.
- 7.79 SIFE will be located immediately to the west of London in the Thames Valley, and well placed to satisfy concentrations of market demand from areas of high population and a strong, established and growing customer base. Research data shows that of all the regional distribution centres (RDC) SIFE scores very highly whether measured in terms of the population nearby, or retail expenditure by residents, or the amount of retail floor space nearby or the sales captured by that floor space<sup>100</sup>. Research by the Freight Transport Association shows that a significant and growing volume of goods sold in high street stores and supermarkets is being regularly moved by rail and that retailers are reaping major efficiency and environmental benefits in doing so. It also shows there is a clear wish for retailers to move more by rail in the future. These trends and needs are magnified in the West London area, where there is a very high demand for goods. A relatively affluent population of almost 5 million people and retail floor space of over 4 million m<sup>2</sup> is within a 40 minute drive time<sup>101</sup>.
- 7.80 Demand is not only concerned with the wholesale and retail of consumer products but also with meeting the needs of industries, construction, financial, business and public services. Whilst there is a lack of warehouse supply available on the market, there is a significant stock of industrial and warehouse property in the surrounding area to support an intermodal terminal. The West

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<sup>96</sup> GLD/5/B paragraphs 5.47 to 5.52

<sup>97</sup> GLD/3/B page 116 footnote 26: The West of London market area is defined as an area extending around a section of the M25 between the M3 to the south and the M40 to the north. GLD/6/B paragraphs 4.10 to 4.30 analyse the London Market Areas.

<sup>98</sup> GLD/8/B paragraph 16

<sup>99</sup> GLD/5/C Appendix 1 contains maps and descriptions of the main rail routes.

<sup>100</sup> GLD/6/B paragraphs 5.19 to 5.22 and GLD/6/C Appendix 10.

<sup>101</sup> GLD/7/C Appendix 3 and GLD/7/B paragraphs 3.1-3.2 and Figures 1 and 2.

of London Market Area has an existing stock of over 8.7 million m<sup>2</sup> of warehouse space and over 4.9 million m<sup>2</sup> of factory space<sup>102</sup>. A comparison of concentrations of warehousing and retail floor space in the region demonstrates that SIFE will be optimally placed to serve the business market<sup>103</sup>.

- 7.81 With direct links to the strategic road network, SIFE will be located near to the business markets it intends to serve. This will help operators/users of SIFE achieve cost savings and other efficiencies by serving more consumers and customers within a given distance. The proximity of Park Royal and Heathrow is also significant because they add to the critical mass of distribution activity in the area, to which SIFE will be complementary. The choice of location is likely to be reinforced over time by the growing demand for large scale logistics warehousing, structural changes in retailing and logistics and the increasing importance of rail connectivity.
- 7.82 Consistent with an objective of the NPS the commercial market has endorsed SIFE as an appropriate location for an SRFI. Goodman has invested heavily in the site in the firm belief that there is a very strong demand for this facility, with rail connectivity, in this location<sup>104</sup>. There is wide support for the proposal within the industry, as confirmed by Network Rail, the Freight Transport Association, the Rail Freight Group, the operators of intermodal rail terminals (including DIRFT) and DP World, the operator of London Gateway. The strong support for SIFE is based on the strong demand for new rail freight interchanges, the insufficient intermodal capacity to serve London and the South East and the ideal location of Colnbrook for a SRFI. Mr Ives (DB Schenker Rail) described the importance of the position of SIFE within the supply chain and how the proposed SRFI would allow the carriage of rail freight to within a very few miles of the point of consumption of the majority of that freight<sup>105</sup>.
- 7.83 The NPS recognises that new freight interchanges in areas poorly served by such facilities are likely to attract substantial business, generally new to rail. London, and specifically the West of London, is such an area. Most of the freight handled by SRFIs would come in and go out by road, which is the accepted way in which SRFIs work. The purpose of SIFE is to provide opportunities for rail to be used rather than road and to facilitate modal shift. The site will attract a high level of rail use, so that rail market share at SIFE would outperform current and forecast 2033 rail market shares<sup>106</sup>.
- 7.84 Detailed consideration has been given to the prospects for market demand for SIFE. The analysis confirms the strategic advantage of the location and demonstrates a strong demand and an absence of supply of large warehouse units<sup>107</sup>. The attractiveness of the SIFE proposal in relation to the market has been endorsed by commercial property agents<sup>108</sup>.

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<sup>102</sup> GLD/IQ/21

<sup>103</sup> GLD/5/B Table 5.1 and paragraphs 5.51, 5.52 and GLD/IQ/34 paragraph 84

<sup>104</sup> GLD/7/B contains information on Goodman's property and investment strategy in the UK.

<sup>105</sup> GLD/8/B paragraph 21

<sup>106</sup> GLD/5/B Table 6.5

<sup>107</sup> GLD/6/B paragraphs 5.37 to 5.54.

<sup>108</sup> GLD/6/B paragraphs 4.37 to 4.41 report market feedback from commercial property agents.



- 7.85 In conclusion, there is a very close fit between market demand, the needs of the logistics sector, Government policy and the delivery of a SRFI at this location to benefit from the excellent strategic road and rail connections as part of an expanded network of SRFIs at a wide range of locations to serve regional, sub-regional and cross regional markets.

*Level of rail use*

- 7.86 The Council has agreed that the provision of one train a day for the first year of operation and four trains for the next four years constitutes 'a high level of rail use' in accordance with the CS. The Council also accepts that SIFE has all the attributes of a SRFI.
- 7.87 The physical configuration and infrastructure available at SIFE will provide a facility able to accommodate up to 12 trains a day. DB Schenker Rail anticipates that SIFE will be operating at its rail capacity within 5 years. Goodman is of the view that the site is an ideal location for the SRFI it intends to develop. The rail offer will boost demand for the units and will ensure the warehousing continues to be attractive into the future. The planning obligation provides a number of measures to secure a high level of rail use. They are similar to but also more extensive than obligations accepted in the Howbury Park, Radlett and DIRFT decisions<sup>109</sup>.
- 7.88 The NPS confirms that the development of additional capacity at Felixstowe and the construction of London Gateway will lead to a significant increase in logistics operations, increasing the need for SRFI development. The Secretary of State has adopted the rail forecasts produced by MDS showing a substantial increase in domestic intermodal rail freight growth.
- 7.89 London and the South East are poorly served by SRFI capacity. The market evidence is of a strong demand for additional large scale warehouse floor space and rail-served floor space in the West of London area. It is anticipated that the site will be occupied by companies using the warehouse units as RDCs predominantly serving the London and South East regional market<sup>110</sup>. The traffic forecasts show that if all the loaded and empty units arrived and departed by road (ie. the site was not rail connected) this would equate to 1,341 HGVs inbound and 1,341 HGVs outbound per day. On the basis that the site is rail connected the traffic would amount to 1,249 HGVs inbound and 1,249 HGVs outbound per day serving the warehousing.
- 7.90 In addition to the on-site traffic generated, SIFE also would provide an intermodal terminal for traffic to and from western Greater London, Berkshire and Surrey. The forecasts produced by the GB Freight Modal suggest average loaded inbound rail volumes to be 226 units per day (123 units to the warehousing plus 103 for off-site distributors), predominantly of consumer goods. Average loaded outbound rail volumes are forecast to be 167 units per

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<sup>109</sup> GLD/3/C Appendix 45

<sup>110</sup> GLD/5/D paragraph 28 acknowledges that the warehouses are unlikely to generate outbound rail traffic.

day all from off-site exporters in the wider Thames Valley area. In total, the forecasts suggest a 26% rail mode share on a per HGV equivalent unit basis<sup>111</sup>.

- 7.91 The development of SRFIs will transfer existing cargo flows, which previously moved through non-rail served sites (ie. by road), to locations where there is the option of using rail freight direct<sup>112</sup>. This concept underpins modal shift and generates the wider environmental benefits. The implication is that if SIFE is not developed the freight concerned would continue to flow into the region and be handled at other warehouse facilities, most likely at sites which are not rail served. Using the GB Freight Model, it is estimated that SIFE would lead to a reduction of 30.8 million HGV-km per annum compared with a road only connected development with the same quantum of floor space at the same location. On the basis of up to date traffic forecasts, a high level of the cargo handled at SIFE can be expected to arrive or depart by rail freight. Inbound market share by rail in 2033 is forecast to be 26% when measured in tonnes lifted or 44% when measured as tonne-km. These levels are significantly higher than existing (7% tonnes-lifted and 13% tonnes-km) and future (8% and 20%) expected market share for rail freight nationally<sup>113</sup>.
- 7.92 In addition to the proposed 194,800 sq m of rail served warehousing on site, there is a vast existing logistics and industrial stock in the area that would be open to be served by SIFE. Interest in use of the intermodal terminal would not be confined to the occupiers of large warehouses – the evidence is of various different businesses sharing the use of a train. There is no specialist view or empirical evidence to support the Council's argument that the take-up of rail is unlikely. The Appellant's view, supported by expert evidence, is that by the time the terminal is fully developed 9 trains a day will serve SIFE. This level of use is based on rail forecasts that were conservative and cautious in their approach to rail volumes<sup>114</sup>.
- 7.93 Rail freight traffic at SRFIs gradually builds up over time following occupation. An analysis of operational SRFIs and intermodal terminals shows that the overall trend at all sites is one of steady growth from 2004 in terms of wagons handled per day and tonnes lifted<sup>115</sup>. The West Midlands area also shows that 3 SRFIs can successfully co-exist in reasonable proximity to each other. All have developed without evidence of any harmful abstraction of traffic between them, each securing occupiers and rail freight traffic on the basis of geography, on-site facilities and associated charging structure. The lower levels of traffic at the standalone facilities shows that the presence of large scale warehousing on the same sites as an intermodal terminal is key to generating high levels of rail use.

### *Workforce*

- 7.94 SBC's Core Strategy recognises the difficulty of balancing the number of jobs and the labour supply in the Borough but seeks to partly address the problem by increasing the number of jobs that are taken by local people. A range of

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<sup>111</sup> GLD/5/B paragraphs 6.2 to 6.27 explain the traffic forecasts in detail. GLD/5/D paragraphs 28 and 29 and 33 to 38 provide a rebuttal to points made by SBC on outbound trains and rail use.

<sup>112</sup> GLD/5/B paragraphs 6.18 to 6.30 consider modal shift.

<sup>113</sup> GLD/5/B Table 6.5

<sup>114</sup> GLD/5/B paragraphs 6.2 to 6.15, GLD/5/D paragraphs 28 to 30 and 33 to 38.

<sup>115</sup> GLD/5/B paragraphs 6.31 to 6.42 and GLD/5/C Appendix 2

employment opportunities in the Borough is regarded as a continuing need. SBC's Economic Development Strategic Plan for Growth highlights the need to increase economic output, innovation, employment numbers and average earnings. The need to provide opportunities of this kind is seen to be acute and growing.

- 7.95 The employment opportunities offered by the proposed development will be advantageous to the local economy, particularly for Slough which has a relatively high rate of unemployment. Hillingdon, the adjacent local authority area also has a high number of unemployed people<sup>116</sup>. Property agents have noted that SIFE would be located in an area in reach of a large and diverse labour pool well suited to the wide range of jobs in the logistics sector. Potentially recruitment of appropriate staff may be easier than elsewhere<sup>117</sup>. The demographic review confirmed a good labour supply for the employment requirements of a SRFI in this location.

### *Conclusion*

- 7.96 SIFE complies with SRFI selection criteria to a very high level. It is rare for a site to be able to meet this threshold, as recognised within the up to date planning policy context.

### ***Availability for development***

- 7.97 Heathrow. The Final Report of the Airports Commission is a material consideration. However, it is not a statement of policy at national or local level. It is unknown whether the recommendations will be accepted and then satisfactorily progressed through to the achievement of all necessary consents and authorisations. The report should be given no weight in the determination of the appeal. The land that would be required to implement the Heathrow 3<sup>rd</sup> runway option has not been safeguarded for this purpose. With reference to the Planning Practice Guidance the SIFE proposal is not premature because the 3<sup>rd</sup> runway option is not contained in any emerging planning policy document. In the event the 3<sup>rd</sup> runway option was to be progressed in the future the process would allow for the acquisition of the appeal site if required.
- 7.98 Therefore there is nothing in the current status of the Heathrow 3<sup>rd</sup> Runway decision that imposes any practical, commercial, planning or legal difficulty in delivering SIFE. Goodman has every intention of delivering SIFE. The delivery of a Heathrow 3<sup>rd</sup> Runway, and any timing for it, is uncertain. There is no other contending site for a SRFI to serve London and the South East to be encouraged or discouraged by the grant of permission for SIFE or the progression of a Heathrow 3<sup>rd</sup> Runway.
- 7.99 Land ownership. The Council deferred any consideration of its land ownership within the site until after the decision on this appeal<sup>118</sup>. The Radlett decision confirmed that a private land ownership issue is no bar to a grant of permission and has no bearing on the strengths of the benefits delivered by the scheme.

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<sup>116</sup> GLD/6/B paragraphs 3.29 to 3.41 address Local Planning Policy and paragraphs 5.31 to 5.36 consider labour market capacity.

<sup>117</sup> GLD/6/C Appendix 7

<sup>118</sup> GLD/7/D provides correspondence to confirm this position.

### ***No less harmful alternative sites***

- 7.100 The approach to alternative sites should reflect the planning policy as it is now and focus on the need for an expanded network of SRFIs. Therefore unless and until the compelling need for an expanded network of SRFIs has been met, a new SRFI proposal cannot constitute overprovision. In this way where a proposed SRFI would be complementary to existing or committed SRFIs as part of an expanded network it cannot be treated as 'alternative' to them. The context is of a paucity of supply, in terms of a lack of planning permissions and a strong untapped commercial demand within the market for new SRFI infrastructure.
- 7.101 No alternative site to the SIFE proposal was identified in the West of London market area and the wider area considered in the original Assessment of Alternative Sites. This conclusion was reaffirmed through similar reports to accompany the Radlett and Howbury Park proposals<sup>119</sup>. An up to date analysis confirms that there are no 'alternative' sites with rail freight potential located within the West of London market area<sup>120</sup>.
- 7.102 For a number of reasons Radlett is not an alternative to SIFE but complementary, as previously explained when considering need. In summary, both the SIFE and Radlett proposals have the potential to contribute towards the expanded network of SRFIs to serve London and the South East, a matter of common ground with Helioslough. Network Rail has consistently confirmed the two proposals are located in different market areas and are not competitors. It is highly relevant that the Appellant intends to proceed with the implementation of the SIFE proposal notwithstanding the permission for Radlett. SIFE represents an opportunity to provide a better geographical spread of SRFIs around London.
- 7.103 Therefore no less harmful alternative sites have been identified. Development in the Green Belt is essential to deliver another SRFI to begin to address the compelling unmet need, a conclusion that is acknowledged by the NPS and has been made in respect of the Radlett and Howbury Park proposals.<sup>121</sup>

### ***Landscape and Green Infrastructure Strategy***

- 7.104 In principle, opportunities to plan positively and enhance the beneficial use of the Green Belt are positively encouraged within the Framework.
- 7.105 The landscape quality of the appeal site has been assessed as low. The landscape character of the area is weak and its condition declining. A comprehensive LGIS would be a benefit of the SIFE proposal.

### ***Carbon emissions and climate change***

- 7.106 The carbon emissions analysis concludes that, relative to an equivalent road only distribution development, the SIFE proposal would save over 30 million

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<sup>119</sup> GLD/3/B paragraphs 8.22 to 8.38 consider the matter in detail.

<sup>120</sup> GLD/3/C Appendix 37 is a July 2015 update on the Assessment of Alternative Sites.

<sup>121</sup> CD3.6 paragraph 5.172. GLD/3/B paragraphs 8.39 to 8.42.

HGV-km per year<sup>122</sup>. This saving equates to 23,000 tonnes of CO<sub>2</sub> per year or a reduction of 19% compared to a road only scheme<sup>123</sup>. The saving is substantial.

7.107 Such savings are strongly desired in national policy. The Framework acknowledges the central role of reducing carbon emissions in sustainable development. The NPS identifies the environmental advantages, and in particular the reduction in carbon emissions, as one of the four main 'drivers' of the need for SRFIs.

### ***Economic benefits***

7.108 The project will be a major private sector investment with a gross development value of about £360m. The proposed development will have significant economic benefits arising from its construction and its operation<sup>124</sup>. These benefits will arise from direct impacts, indirect supply chain impacts and induced impacts generated by income earned and further rounds of expenditure within the economy. The building work alone (£127m) can be linked to £360.7m of economic activity throughout the economy.

7.109 Ongoing operational employment at SIFE will demand a range of skills and create significant opportunities for local recruitment and local businesses. The proposal would have a good level of accessibility to a suitable workforce and would be unlikely to lead to a significant influx of people to the area given existing levels of unemployment. The employment benefit of the development will be some net additional 1,500 to 2,100+ FTE jobs<sup>125</sup>.

7.110 The section 106 agreement makes provision for a Local Employment Scheme as a means of securing training skills and local recruitment during the construction and operational phases.

7.111 The Council's contention that jobs created by SIFE would simply come from jobs elsewhere is not correct in a growing market where the market growth generates net additional jobs and economic benefits. There is support from the NPS, which explicitly singles out considerable benefits for the local economy that SRFIs can provide.

7.112 Consistent with Government policy, other economic impacts of wider societal benefit would accrue from reductions in road congestion, road accidents and carbon emissions.

### ***Benefit for groundwater***

7.113 The ES records that the previous use of the appeal site has the potential to give rise to significant sources of soil and water contamination. The SIFE proposal offers the opportunity to reduce the existing effects of contamination as a result of a programme of screening and remediation and a reduction in infiltration to groundwater by the introduction of pathway breaks.

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<sup>122</sup> GLD/5/B paragraphs 7.1 to 7.6 describe the methodology and assumptions of the analysis.

<sup>123</sup> GLD/6/B paragraphs 8.41 and 8.42

<sup>124</sup> GLD/6/B section 8 looks in detail at economic benefits of the development.

<sup>125</sup> GLD/IQ/23

- 7.114 A risk assessment undertaken in the EIA leads to the conclusion that the SIFE proposal would reduce the significance of the effect on water supply and leaching of contaminants from major/moderate adverse to minor adverse/negligible<sup>126</sup>.

## Conclusions

- 7.115 The harm to the Green Belt has substantial weight in accordance with paragraph 88 of the Framework<sup>127</sup>. The 'other harm' does not appear to be significant and therefore does not weigh heavily in the Green Belt balance. In terms of the other considerations, compelling weight should be attached to the compelling unmet need for the SRFI, the compliance with the site selection criteria, no less harmful alternative site have been identified and the essential need to develop in the Green Belt to deliver SRFI. Some weight should be attached to the LGIS, the reduction in carbon emissions by modal shift, the economic benefits and the benefit to groundwater over time.
- 7.116 The justification for SIFE is compelling. The by definition and actual harm to the Green Belt and any other harm is clearly outweighed by the other considerations such as to amount to the very special circumstances. This is the case even if the Council's view of the nature and degree of harm is preferred to the Appellant's view.
- 7.117 The development plan. Core Policy 1 allows for development within the Green Belt when justified by very special circumstances. Core Policy 2 has been shown to be fundamentally inconsistent with the Framework. Nevertheless, there are no alternative locations within Slough or elsewhere for a SRFI to serve London and the South East and so 'the essential to be in that location test' in Core Policy 2 is met. The criteria in paragraphs 2.29-2.31 for considering any future rail freight facilities at Colnbrook are met because very special circumstances are made out and the NPS confirms a compelling need. The proposals comply with the development plan when read as a whole.
- 7.118 However, to the extent that a different conclusion is reached, reliance is placed on the same 'other considerations' as discussed in the context of paragraph 88 of the Framework as being material considerations which would indicate otherwise than determining the appeal in accordance with the development plan.
- 7.119 The Framework. The Green Belt balancing exercise shows very special circumstances exist. The scheme promotes the delivery of an expanded network of SRFIs and consequently promotes the Government's vision of a low carbon sustainable transport system that is an engine for economic growth, which is also safer and improves the quality of life in communities. The care and attention to the promotion of recreation within the countryside through the LGIS and the development proposals, together with the enhanced use and connectivity of the Colne Valley Trail and Way, would help to promote healthy

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<sup>126</sup> CD1.43 Chapter 13.0A of the ES Addendum considers Ground Conditions and Contamination. In GLD/3/B Mr Flisher refers to paragraphs 13.27, 13.32, 13.86a and Table 13.16 of CD1.43.

<sup>127</sup> Mr Flisher carried out the Green Belt balancing exercise at GLD/3/B paragraphs 8.92 to 8.106.

communities. The SIFE proposal could contribute to all three dimensions of sustainable development<sup>128</sup>.

## 8. THE CASE FOR SLOUGH BOROUGH COUNCIL<sup>129</sup>

- 8.1 The Government's commitment to Green Belts is stronger now than ever before. The proposed SRFI development would be a massive incursion into the Green Belt, with the 3 largest buildings each the size of 15 to 17 football pitches. The positive case for the development is very much weaker than at previous appeals as a result of the Radlett decision. Therefore the Appellant is now seeking a more damaging proposal when there must be less need.

### Green Belt<sup>130</sup>

- 8.2 The statement in the Framework that "the Government attaches great importance to Green Belts" is significant and underlines how important Green Belt policy is. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence.
- 8.3 The whole of the 58.7 ha site is currently entirely open, comprising one very large open field used for grazing and some woodland. The development of the proposed SRFI and its associated infrastructure would result in the permanent loss of the majority of this open land.
- 8.4 The proposed buildings would be very large. By way of comparison, in terms of footprint, the three buildings in total would be roughly equivalent to having three Terminal 5 buildings on the site. The warehouse units would be a completely different scale to the buildings near by on the Lakeside Industrial Estate<sup>131</sup> and the Royal Mail building on Sutton Lane at Langley (41,750 m<sup>2</sup>). The scheme also includes the intermodal terminal with two 25 m high gantry cranes and external container storage, the main site access to the west and the railway tracks along the northern edge of the site. The full extent of the impact on openness would be greater than the built development footprint of 42 ha identified in the Appellant's evidence<sup>132</sup>. In reality the vast majority of the 58.7 ha would be taken up by built development. The description of the impact as huge or massive, accepted by the Secretary State in respect of the LIFE development, is equally apt here<sup>133</sup>.
- 8.5 The Appellant sought to reduce the significance of the effect of SIFE on openness by relying on the existing visual containment, the presence of strong boundaries around the perimeter of the site and the proposed landscaping<sup>134</sup>.

<sup>128</sup> GLD/3/B paragraph 3.62 Table 1 summaries the information on sustainable development.

<sup>129</sup> SBC/IQ/15 has provided the framework for reporting the gist of SBC's case, supplemented by the inquiry documents and oral evidence.

<sup>130</sup> When the proposal was refused planning permission in 2011 national policy on Green Belt was set out in Planning Policy Guidance 2. Mr Stimpson confirmed in his proof that the cancellation of PPG2 and its replacement by the Framework did not change Green Belt policy and the reason for refusal – SBC/02 paragraphs 6.1.1, 6.2.2.

<sup>131</sup> Mr Stimpson in his oral evidence referred to the Colnbrook Logistics Centre of 13,500 m<sup>2</sup> and the footprint of the Grundon building at 9,000 m<sup>2</sup>.

<sup>132</sup> Document GLD/4/B paragraph 8.17 and Document GLD/4/C Appendix 16.

<sup>133</sup> Document CD6.2 paragraph 13

<sup>134</sup> Document GLD/4/B paragraph 8.19

However, the approach of concentrating on the perception of the development was rejected in the LIFE decision and detracts from the complete compromise to the fundamental aim and essential characteristic of the Green Belt. The actual development would have an unacceptable impact on the openness of this part of the Green Belt.

- 8.6 The purposes of the Green Belt are of paramount importance. The focus of the Appellant's oral evidence was on the land use objectives, which are of secondary importance. The SIFE site is a very large open area that plays an important role in preventing sprawl of the large built up areas of London and Slough. There is a considerable amount of ribbon development along the A4 Colnbrook Bypass, which already gives the impression of urban sprawl. The northern section, comprising the appeal site and the Biffa site, is the only sizeable section of the road that does not have any development along it. The linear nature of the proposed development would add significantly to the amount of urban sprawl and have a disproportionate effect on this already highly fragmented part of the Green Belt. The proposed boundaries of the site would be insufficient to restrict further development in view of the persisting major development pressures on the surrounding lands<sup>135</sup>. To allow a large scale scheme such as SIFE may act as the tipping point at which the area becomes so fragmented that it no longer serves the purposes of including land in the Green Belt.
- 8.7 Green Belts were designed to be several miles wide, the size of gap that is required to effectively separate the London conurbation and a town the size of Slough. The SIFE development would fill in most of the vulnerable gap along the A4 corridor<sup>136</sup>. Consequently the second purpose of the Green Belt would be severely compromised.
- 8.8 The site, although surrounded by urban activities, is entirely countryside and used for countryside purposes. Furthermore, Green Belt is designated regardless of landscape quality. The Inspector in his report on the LIFE proposal stated "this site is in a vulnerable location, subject to great pressure for development and is just the sort of countryside which the Green Belt was constructed to protect."<sup>137</sup> The loss of the land to the development would be very damaging to the countryside and to the countryside recreation opportunities provided. As a result the proposed development would cause harm to the third purpose of Green Belt policy, which is to assist in safeguarding the countryside from encroachment.
- 8.9 In addition to causing harm to the appeal site and its immediate surroundings, the development would cause significant harm to the integrity of the Green Belt in the wider area<sup>138</sup>. The Slough/Heathrow area is one of the most fragmented parts of the Metropolitan Green Belt. The Green Belt designation washes over a lot of development (the motorways, the British Airways office headquarters, the sewage works and so on) and therefore on the ground the fragmentation is greater than appears on plan. The geographic location also makes the Green

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<sup>135</sup> Mr Stimpson particularly identified the pressure on the Biffa site, with reference to proposed additional warehousing on the land - Document SBC/03 Appendix 10 pages 141 and 142.

<sup>136</sup> SBC/02 paragraph 6.4.41 states the size of the gap would be reduced to 800m.

<sup>137</sup> Document CD6.1 paragraph 13.117

<sup>138</sup> SNC/02 section 6.5 provides more detail of this aspect of the Council's case.



Belt vulnerable to major developments. Three major development projects are proposed within a mile of the SIFE site - WRATH, the M4 Smart Motorway and the relocation of the Heathrow Depot. There is also the possibility of a third runway at Heathrow.

- 8.10 In conclusion, the development would do enormous harm to the fundamental aim of Green Belt policy and to three of the purposes of Green Belt designation<sup>139</sup>. The harm is of such a scale and significance that it should attract massive and huge weight.

### **The Strategic Gap**

- 8.11 The retention of Slough's individual identity by keeping it separate from London has been a long standing objective of the Council. As a result the maintenance of a Strategic Gap between the two urban areas has been an important part of the planning policy in Slough for a number of years. Originally a Green Wedge/Gap policy, the Strategic Gap has been elevated through the CS to be an important place making policy for implementing the spatial strategy for Slough<sup>140</sup>.
- 8.12 The policy framework is different in Slough because the Strategic Gap is much more important to Slough than elsewhere. The policy intention is that additional restraint will be applied to the remaining open land in Colnbrook and Poyle, east of Langley and Brands Hill because of its special sensitivity. Only essential development that cannot take place elsewhere will be permitted in this location. The validity of having such a strong policy objection to development within the Strategic Gap was tested and confirmed through the CS examination. The decision to give the area additional protection has meant that the Core Strategy and Site Allocations Document allow higher densities in parts of the town and other green field land has been released for development, including parks and public open space.
- 8.13 The Strategic Gap policy has been thoroughly tested through the courts, where it was found to add an additional policy restraint over and above that of Green Belt. Whilst not an absolute bar, it is a very high bar. The Secretary of State's decision on Radlett was quashed in 2011 for the reason that the extra hurdle of protection was not considered<sup>141</sup>. Subsequently in 2015, Holgate J confirmed the construction of the policy given in the 2011 judgement<sup>142</sup>. To argue, as the Appellant does, that the test in the Strategic Gap policy would be overcome if Green Belt policy requirements are met<sup>143</sup>, ignores the additional policy restraint found by the courts and repeats the mistake made by the Secretary of State that led to the first Radlett decision being quashed.

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<sup>139</sup> The Council, referring to the LIFE decision, did not seek to argue that the proposed development would cause harm to the fourth and fifth purposes of Green Belt, namely to preserve the setting and special character of historic towns and to assist in urban regeneration - see Document SBC/02 paragraphs 6.4.53 to 6.4.58.

<sup>140</sup> SBC/02 section 7.2 sets out the history of the Strategic Gap policy.

<sup>141</sup> CD6.8 paragraphs 77 to 88

<sup>142</sup> SBC/IQ/4 paragraph 10

<sup>143</sup> GLD/3/B paragraph 6.62

- 8.14 In July 2014 the Secretary of State, when redetermining the Radlett appeal, attributed substantial weight to the Strategic Gap designation<sup>144</sup>, which is consistent with Slough's case that some Green Belt is more vital than other areas of Green Belt.
- 8.15 The Appellant initially argued that Core Policy 2 was a local policy designed to determine the location of development within Slough. That is incorrect. In applying 'the essential to be this location test' to the proposed SRFI it is necessary to look beyond Slough. Therefore in order to comply with Core Policy 2 it has to be demonstrated that is essential to have an SRFI at Colnbrook as opposed to any other location.
- 8.16 The Appellant's point that the Strategic Gap policy is not consistent with the Framework has no merit. There are two clear bases for gap policies in the Framework, as seen by reference to the core planning principles and the requirement that Local Plans should identify land where development would be inappropriate, for instance because of its environmental or historic significance<sup>145</sup>. Local Plans are able to go further than repeating the relevant section of the Framework, consistent with the first core principle, that planning should be plan-led empowering local people to shape their surroundings. The consistency of gap policies with the Framework has been endorsed by the High Court and the argument was before the Secretary of State when he determined the Radlett appeal in July 2014.
- 8.17 The gap between Slough and London is already fragmented. The combination of the Biffa land and the SIFE site extend to about 2 kms alongside the M4 and A4 and form by far the largest single area of undeveloped land within Slough's Strategic Gap. A gap of this size is required in order to be effective and to prevent the coalescence of a town the size of Slough with Greater London. Most people would regard the M25 as the edge of London because it is a physical, visual and administrative boundary.
- 8.18 The SIFE development would be a large urban intrusion and create the impression of filling in the gap for the vast majority of people travelling between the two places. Even with the partial screening afforded by planting, people would be under no illusion about the massive size of the development as they travel along the A4<sup>146</sup>. The Appellant maintained that a gap of 660 m would remain but the factual distances of separation were inaccurate because the western junction to the site from the A4 was not taken into account. The LIFE Inspector considered that this factor would be particularly important to creating the perception of 'a large scale urban intrusion'. The impact from the M4 would be less but with the loss of trees in order to construct the railway line, the urbanisation would be apparent even if only glimpsed<sup>147</sup>. The remaining gap formed by the Biffa site between Brands Hill and the western access into the SIFE development would be seen more as an internal break within Slough rather than part of the gap between Slough and London.

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<sup>144</sup> CD6.7 paragraph 39

<sup>145</sup> The Framework paragraph 17 at 5<sup>th</sup> bullet point and paragraph 157 at 7<sup>th</sup> bullet point

<sup>146</sup> The point was supported by Mr Stimpson by reference to the photomontage viewpoint 9 included in Appendix 15 of GLD/4/C.

<sup>147</sup> GLD/4/C Appendix 15 provides a photomontage for viewpoint 6.

8.19 Therefore the development of SIFE would result in the loss of a key site in the Strategic Gap and lead to the further coalescence of Slough with Greater London, with the consequent loss of Slough's separate identity. There would be severe and irreparable damage to the Strategic Gap.

### **Colne Valley Park**

8.20 The Colne Valley Park, originally established in 1965, was designated not for its scenic beauty but because of its regional significance for recreation and biodiversity and to address issues of development pressure, high levels of dereliction and fragmented land ownership. More recently in 2012 the All London Green Grid recognised its regional importance, describing the Park as "a green lung to the west of London"<sup>148</sup>. The CS included the Colne Valley Park in Core Policy 2 to strengthen its protection and as a result any proposed development has to demonstrate that it is essential to be in that location. In accordance with the NPS the Park should be protected from development by reason of being a network of green infrastructure identified by the development plan<sup>149</sup>.

8.21 Retaining a continuous band of open land is fundamental to the integrity of the Park because of its linear nature. The development of the SIFE site would lead to the loss of open countryside and urbanisation of one of the narrowest sections of the Park. SIFE would sever a vital link in the central part of the Park, one of the reasons why the Secretary of State refused the LIFE development.

8.22 The most significant impact of the SIFE development at the local level would be the loss of countryside recreation opportunities in close proximity to residential areas. The size of the site means that it retains the appearance of open countryside. Public rights of way run across and round the site, including the Colne Valley Trail. Management arrangements are in place to ensure paths are kept open and maintenance issues addressed<sup>150</sup>. The site also forms part of a substantial area of open countryside containing lakes, rivers, woodland and public rights of way. Immediately to the west the Biffa site is being restored to agriculture and the public footpath across the land will be reinstated. Therefore, with reference to objectives of the Framework, the site contributes to social and recreational facilities for the community and forms part of a wider network of green infrastructure that has a diversity of elements. Whilst there are more formal parks within driving distance of the Colnbrook area, none are able to provide a similar sense of being away from a highly urbanised environment.

8.23 The SIFE proposal includes a package of measures that includes new or upgraded routes around the development and off-site leisure provision. Duties regarding public rights of way would be met. However, due to the scale of the proposal, the replacement routes would appear as corridors, with unavoidable views of development. The routes would be close to HGV traffic and subject to

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<sup>148</sup> Supplementary Planning Guidance published by the Mayor of London in 2012; SBC/03 Appendix 17 page 337

<sup>149</sup> CD3.6 paragraph 5.175

<sup>150</sup> SBC/02 paragraphs 8.4.47 and 8.4.61 and SBC/03 Appendices 36 and 40 for details of the arrangements.

operational noise and disturbance<sup>151</sup>. Walkers would have the feeling of walking round an industrial park, rather than a rural or semi rural area<sup>152</sup>. The loss of amenity would be particularly significant for the Colne Valley Trail, which would lose much of its rural character and become a much urbanised route. There will be places where the Trail would be less than 10 m from 5 or 6 lanes of HGVs. Objectives for the Park, related to maintaining and enhancing scenic value and overall amenity and the provision of opportunities for countryside recreation, would be undermined. Requirements of Policy CG1 of the LPfS would not be met.

- 8.24 The Linear Park and National Cycle Route 61, of regional importance, follow the Colne Valley Trail along the eastern boundary of the site. The impact of SIFE on the amenity of the route conflicts with LPfS Policy CG2.
- 8.25 In terms of the effect on ecology, the most vulnerable habitats are Old Wood, the adjacent lakes including Old Slade Lake, Colne Brook and its associated vegetation. Regional or national species requiring protection within or adjacent to the Assessment Site include 21 species of overwintering birds, 9 species of breeding birds, an invertebrate assemblage, slow worms, grass snakes and bats. A range of mitigation measures are proposed.
- 8.26 SBC supports the proposals for Old Wood and off-site improvements to enhance biodiversity. Natural England and the RSPB stated they had no outstanding objections provided the planting and management measures committed to are implemented<sup>153</sup>. These include the provision of buffers or boundary treatment to screen the development, the use of silt blankets to protect the water quality of the lakes and operational noise measures and construction timings to avoid disturbance to birds. These measures will be enforced through planning conditions and the section 106 agreement.
- 8.27 Nevertheless, some significant local effects cannot be mitigated, including the loss of improved grassland as a resource for skylark, meadow pipit and herring gull (red list species) and also for other gull species associated with Colnbrook landfill<sup>154</sup>. The loss of open rural land with nature conservation value is contrary to an aim of the Colne Valley Park to conserve biodiversity resources.
- 8.28 To comply with Core Policy 2 it must be demonstrated that it is essential for SIFE to be in this location within the Regional Park. The test is not met for the

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<sup>151</sup> SBC/02 paragraphs 8.4.25 to 8.4.85 and SBC/IQ/15 paragraphs 4.6 to 4.8 describe the effects in more detail.

<sup>152</sup> This description is derived from the Inspector's report on the LIFE development – see CD6.2 paragraph 13.116.

<sup>153</sup> CD2.1 paragraphs 6.29 and 6.34 report the comments in full. CD2.1 paragraph 6.7 reports the comments of the Berks Bucks and Oxon Wildlife Trust. There is particular concern over the loss of skylark territories. Regarding the impacts on the SPA, Natural England considered no Appropriate Assessment would be necessary provided the identified mitigation and compensation can be secured. Certain aspects of the scheme are welcomed.

<sup>154</sup> This conclusion is acknowledged by the ES at paragraph 12.172 of CD1.43. The conclusion in paragraph 12.173 goes on to say that the proposed development as a whole ensures that there will be biodiversity enhancement by creation of significant areas of new woodland, scrub and grassland and enhancement of existing woodland and other habitats. Sites of county importance as well as the Horton and Colne Brooks will be protected and enhanced. Sites of international importance will be protected from significant effects on integrity.

same reasons identified in relation to the Strategic Gap. Accordingly the proposed development is contrary to Core Policy 2.

### **Other harm**

8.29 SBC has withdrawn its objection on air quality grounds. However, the site is located in one of the most polluted areas outside central London. SIFE would result in a concentration of HGV vehicles in the surrounding area and make the position worse in the Brands Hill AQMA. Therefore there would be localised harm, although a national gain in air quality.

### **Other considerations**

#### ***Need and alternative sites***

- 8.30 There has been a long standing policy need for 3 or 4 SRFIs to serve London and the Greater South East, originating from the work carried out by the SRA. SRFIs should be spread around London to get the best geographical spread. The search for alternatives should consider the north west sector, a wider area than the West of London area used by the Appellant. Whilst the West of London is a very substantial catchment area with a high demand for a supply of goods, it is large and diverse. It is not considered to represent a distinct consumer market that has a specific need for a SRFI to be located within it. There is only a need for one SRFI in the north west sector and an alternative site to SIFE exists at Radlett. The Appellant has previously argued that SIFE and Radlett were alternatives<sup>155</sup>.
- 8.31 In considering and approving the Radlett SRFI in 2014 the Secretary of State agreed with his Inspector who said that 'it cannot be rationally concluded that Colnbrook would meet the needs for an SRFI in a less harmful way than the appeal site'.<sup>156</sup> Having reassessed alternative sites, the Secretary of State concluded that there was 'a lack of more appropriate alternative locations for an SRFI in the north west sector which would cause less harm to the Green Belt'.<sup>157</sup> This factor was pivotal to the way the Secretary of State approached the matter. When the Secretary of State thought there was a better site in 2010, permission was refused for Radlett.
- 8.32 In context, his conclusion is clear that there was only a need for one SRFI in the north west sector in July 2014. There are no grounds for the Secretary of State to alter the line of reasoning in the Radlett decision, notwithstanding the three matters identified by the Appellant - the designation of the NPS, the cancellation of the SRA guidance and the passage of time.
- 8.33 The NPS, designated by Parliament in January 2015, does not change the position as at July 2014. The NPS policy for SRFIs confirms previous policy set out in the policy guidance published in 2011. To present the NPS document as a sea change to require a new approach by the Secretary of State to that taken in Radlett is inconsistent with its terms. The NPS speaks of a presumption against development except in very special circumstances, unlike the National Policy Statement for Ports which states a presumption in favour of granting

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<sup>155</sup> SBC/02 paragraphs 9.3.46 to 9.3.77

<sup>156</sup> CD6.5 paragraph 13.103 and CD6.7 paragraph 39

<sup>157</sup> CD6.7 paragraph 53

consent. If anything, when read as a whole, it is less supportive of SRFI in London and the South East at the expense of Green Belt than before. Previous policy stated that SRFI needed to be provided particularly but not exclusively to serve London and the South East. Current policy states there is a particular challenge in expanding rail freight interchanges serving London and the South East. This is a challenge to expand existing rail freight interchanges, not to provide new ones.

- 8.34 Reliance on general guidance on SRFIs in the NPS is not a convincing site specific need case. It is also clear in government guidance that not all needs should be met at the expense of the Green Belt, as illustrated by reference to unmet housing need. The NPS specifically deals with the case where it has been found there is only a Green Belt site to meet unmet need for a regional SRFI, which is the situation argued by the Appellant for SIFE. The promoters have to demonstrate and the Secretary of State has to be convinced that very special circumstances exist. Therefore even if it is concluded there is a policy need, notwithstanding the one site permitted in the north west sector, it does not follow that there will be very special circumstances to justify a SRFI in the Green Belt. That must be particularly true in the most valuable Strategic Gap.
- 8.35 The NPS does not cover the number of SRFI needed in the South East. The last numeric guidance was the SRA assessment, which indicated 3 or 4 SRFIs could provide the required capacity to serve London and the Greater South East region<sup>158</sup>. In the July 2014 decision on Radlett the Secretary of State still regarded the document as a source of advice and guidance, some 9 years after the abolition of the SRA in 2005<sup>159</sup>. The administrative action of formally cancelling the SRA guidance does not change the position and it should still be taken into account. Such an approach is supported by the logic applied by Ouseley J in *South Northamptonshire Council v Secretary of State for Communities and Local Government and Barwood Homes Limited*<sup>160</sup>.
- 8.36 Finally, the passage of time since the Radlett decision cannot be a reason for a fundamental shift in decision making. The forecasts for rail freight published in the 2011 guidance predicted that by 2030 the intermodal freight for ports and domestic would be 29 billion tonne-km whereas the forecast in the NPS predicts the same level would not be reached until 2033<sup>161</sup>.

### **Network of SRFIs**

- 8.37 A number of factors show that refusal of the SIFE scheme on site specific grounds will not defeat policy on SRFIs. Many sites would come forward around the country and would not have the particularly adverse site specific features found at SIFE. Rail freight forecasts indicate that there could be 13.1 million m<sup>2</sup> of rail linked warehousing by 2043/4 without SIFE, as opposed to 13.3 million m<sup>2</sup> of rail linked warehousing, with the scheme<sup>162</sup>.

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<sup>158</sup> SBC/02 paragraphs 6.6.12 to 6.6.31 address the policy need for 3 or 4 SRFIs

<sup>159</sup> CD6.7 paragraph 17

<sup>160</sup> SBC/IQ/7 paragraphs 16 and 17

<sup>161</sup> CD3.2 table in paragraph 3.2.1 and CD3.6 table 3 under paragraph 2.50

<sup>162</sup> GLD/5/C Appendix 3 pages 22-24

- 8.38 Within this national network SRFIs attract a much higher proportion of goods to and from their warehouses by rail, estimated by the Appellant to be 50% in by rail and 25% out. The national SRFI are more important because they are sufficiently far from the ports to attract traffic from them. In contrast, only relatively small volumes of intermodal rail freight are forecast to serve the London area direct from the ports<sup>163</sup>.
- 8.39 There is now progress in delivering the policy need for 3 or 4 SRFIs in London and the South East. The north west sector will be well served by rail linked warehousing by the construction of 331,665 m<sup>2</sup> of built development at Radlett. In the wider London and South East area, permission was granted in 2007 by the Secretary of State for an SRFI at Howbury Park. Given the state of demand the scheme was not built but a revised planning application will be submitted in 2015<sup>164</sup>.
- 8.40 The development of the London Gateway deep sea container port and distribution centre at Thurrock is a significant factor in meeting the need for rail linked facilities. The logistics park will be one of the largest in Europe. The train paths operate in both directions. Commercially there would be an incentive to fully utilise train capacity. Rail services run by Freightliner and D B Schenker Rail are able to transport goods to and from Scotland, the North of England and the Midlands. From Gateway goods can be transported to the concentrations of retail centres in central London. Therefore physically and operationally Gateway is able to function as a regional SRFI, which Mr Hatfield accepted. There was no evidence to show that a lorry cap would be a reason to stop goods arriving by rail for onward transportation.
- 8.41 The warehouses, some 16 km (10 miles) from the M25, are well within the distance a SRFI serving the London and South East markets could expect to be located. The distance to SIFE is shorter than any train service operating. In the KIG appeal break even distances were found to be 300 km. The route utilisation strategy (RUS) forecast that freight generally would be carried to London by road because of the short distance<sup>165</sup>. It is unlikely that factors have got much more positive in favour of rail, as seen by the Appellant's predictions and Government intermodal traffic forecasts being lower now than in 2010/2011. No factors relevant to the case were set out by Mr Hatfield that improved the economics of rail, whilst it is common knowledge that the oil price has not increased.
- 8.42 Therefore when the NPS states that London Gateway will lead to a significant increase in logistics operations, clearly this is not in the South East. The

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<sup>163</sup> GLD/3/C Appendix 5 paragraph 9.2.8. Mr Hatfield drew attention to the report's encouragement of the provision of suitable rail connected terminal sites in and around the capital as the next chain in the supply chain. Such an increase in opportunity, environmental factors and increased efficiency of rail freight were expected by the report to give potential for high levels of growth in domestic container movements by rail in SE England. The NPS is saying RDCs are required as part of the network especially in the South East.

<sup>164</sup> GLD/3/D paragraph R3.22. Mr Flisher understood the delay was due to environmental and implementation matters, as opposed to a lack of demand.

<sup>165</sup> CD6.9 paragraph 18.212 and GLD/3/C Appendix 5 paragraph 9.5.2

evidence shows that London Gateway will fulfil the same function as a SRFI on a very large scale<sup>166</sup>.

- 8.43 Renwick Road, Barking is a site where DB Schenker Rail has made a significant capital investment<sup>167</sup>. The site has the advantages of proximity to established infrastructure and immediate accessibility to the HS1 rail link to the Channel Tunnel. The site is already making a contribution towards receiving goods for the London market and Mr Ives accepted that up to 229,000 m<sup>2</sup> of rail linked warehousing could be achieved by 2043<sup>168</sup>.
- 8.44 Even with a policy need the lack of a network in the South East has not prevented other proposals being refused planning permission by the Secretary of State, as seen with LIFE, KIG and initially at Radlett.
- 8.45 Therefore nationally the network would not be very adversely affected if a site specific objection to SIFE was maintained by the Secretary of State. In the north west sector the position would be satisfactory by reason of the larger than average amount of rail linked warehousing at Radlett. Radlett, Howbury, Gateway and Barking will meet most if not all the last quantified need for London and the South East. The additional capacity means reliance will not be placed on existing rail freight interchanges to manage demand and there is not a perpetuation of the status quo within the meaning of the NPS. There is no overriding need for a regional SRFI at Colnbrook.

### ***Transfer of freight from road to rail***

- 8.46 The NPS identifies the benefits resulting from the transfer of freight from road to rail. A site specific need case is expected to be made out, because the forecasts and general statements do not provide the necessary granularity. It is regarded as important that SRFIs are located near to the business markets they will serve and are linked to key supply chain routes. The approach of the Secretary of State in the KIG case was to look in detail at whether there would be each of the elements of traffic predicted to enable the scheme to operate as a SRFI. In this case there are real reasons to question the amount of freight that will be actually transferred from road to rail.
- 8.47 Much of the rail freight expected to use the SIFE site is forecast to use the intermodal and not the warehouses. The warehouses are forecast to have only 16% of their goods coming in by rail and 0% out by rail<sup>169</sup>. Expressed in another way, if all the freight was road to road, this would equate to 1341 HGVs in bound and 1341 HGVs outbound. The introduction of rail would reduce this to 1249 HGVs in each direction, a difference of only 92 HGVs per day. The small amount of 16% relies on the warehouses being let to occupiers with an

<sup>166</sup> SBC/02 paragraphs 6.6.57 – 6.6.74 and SBC/IQ/15 paragraphs 8.14 to 8.20 develop the argument in detail.

<sup>167</sup> GLD/8/B paragraph 20. The site was acquired to use primarily for rail traffic to and from mainland Europe to allow rail transport of finished vehicles, containerised product and eventually the carriage of road semi-trailers across Europe. Currently goods are transported between Barking and the Tesco warehouse at Purfleet, a distance of around 10 km. Mr Ives expected the site to be operating at capacity within 5 years.

<sup>168</sup> The figure is derived from the rail freight forecasts set out in GLD/5/C Appendix 3 page 24.

<sup>169</sup> This is based on the assumption that that by the time the terminal is fully developed trains will carry 30 units per train and 9 trains would arrive and 9 trains depart from the site per day – GLD/5/B paragraph 6.15



interest in using rail. The forecast level of rail use also would not be delivered over the build up period of 10 years when the number of trains would be less. In the LIFE decision the Secretary of State was unimpressed with the small proportion of goods in and out of the warehouses by rail (25% in and 8.2% out)<sup>170</sup>. The likelihood is that to exploit economies of scale the warehouse operators would distribute over wide areas of London and the South East<sup>171</sup>.

- 8.48 The largest element of predicted rail traffic was the 167 intermodal units per day from the local area by road to the SIFE terminal and then onwards by rail. The description of the outbound loaded volumes was confined to a single sentence - essentially exports from the local area (locally manufactured goods and scrap metals, waste paper). Mr Stimpson's evidence, based on his long experience and knowledge of the area, is that there is a lack of warehousing and no major manufacturing in the Slough/South Bucks, Windsor and Maidenhead area to supply the intermodal<sup>172</sup>.
- 8.49 The evidence of the Appellant on this element was lacking. Mr Ward largely dealt with the demand for the warehousing at the site, not the element of the market for the intermodal. His evidence clearly showed the national decline in manufacturing applied to the market areas of concern to the proposal. Many industrial and warehouse units in the Thames Valley have been lost. On the Park Royal estate manufacturing now comprises small scale, high value and quasi service activities that would not want to regularly export by train. Slough Trading Estate is characterised by data centres and high value offices and not factories likely to export to the intermodal.
- 8.50 In 2010 the prediction was 120 intermodal units per day from the local area by road to the SIFE terminal. No explanation was given why in 2015 the prediction showed a 40% increase<sup>173</sup>. A particular disadvantage of the scheme is that it has not been shown that the intermodal will be located near to the market it will serve.
- 8.51 The GB Freight model estimates 103 intermodal units per day to the SIFE terminal by rail and then by road to the local area. However, as set out in Mr Stimpson's evidence there is a lack of major distribution warehouses in the Slough area to provide a market for the intermodal. He referred to the distortion of the distribution of warehousing around London and the South East due to geography, Green Belt policy and economics. As a result of the high rental levels and high labour costs warehousing has not tended to locate in the more expensive areas such as the Thames Valley. In the Heathrow area, available sites tend to be taken by airport related warehouses which deal with small, high value items delivered on a just in time basis. The demand for distribution warehousing is unlikely to be met in this area.

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<sup>170</sup> CD6.2 paragraph 16

<sup>171</sup> See SBC/02 paragraphs 6.7.49 to 6.7.60

<sup>172</sup> SBC/02 paragraphs 6.7.22 to 6.7.48

<sup>173</sup> CD1.15 paragraph 8.20. Mr Hatfield explained that in the original document submitted with the planning application the forecast was based on the national rail freight forecasts current at the time. Since then there have been two further iterations of the national rail freight forecasts that reflect the increasing competitiveness of rail and a gaining market share.

- 8.52 The Appellant's evidence also confirmed this to be the case<sup>174</sup>. Mr Hatfield stated that the wider area is inadequately warehoused, the closest principal concentrations of warehousing being Reading and Bracknell around 22 miles away. The detailed evidence of Mr Ward confirmed the site is in the Heathrow market area and he agreed that there are very few large logistics sheds in the whole market area. The warehouses in London, and more particularly West London, are small units serving the Heathrow and Central London markets. The inevitable conclusion is that SIFE is not close to a market for the 103 units and would be poorly located to the onward supply chain.
- 8.53 The third element of rail traffic relied on is the 123 units per day to the warehousing on site. The reality is that there is a high pent up demand for road to road logistics operators in the area. An operator may well be prepared to pay a higher rent for the location and not use the rail. The forecast is therefore very precarious.
- 8.54 Mr Ives, whilst asserting the location was ideal, accepted that no detailed consideration had been given to the lack of proximity to established logistics infrastructure. DB Schenker Rail has made no capital investment in the SIFE site. Comparison with existing SRFI sites shows that the forecasts and provision of 9 trains a day at SIFE are over optimistic and unlikely to come about. DIRFT achieves 9 trains a day with more than double the amount of warehouses on site and close by. Hams Hall, also with more on-site warehousing compared to SIFE, achieves 4 trains a day<sup>175</sup>.
- 8.55 SBC has consistently sought a guarantee of a high level of rail use to the warehousing for a number of reasons<sup>176</sup>. A guarantee is a requirement of the development plan. Secondly, there are factors which significantly increase the risk that SIFE will not automatically have a high level of rail use. These factors include the economics of warehouse operations in the Heathrow area and the lack of major distribution warehouses in the surrounding area. Thirdly, the policy tests that have to be applied to SIFE are much higher than in other locations because of the Strategic Gap and Colne Valley Park policy requirements. Finally the harm caused by SIFE would be so severe the development could only be permitted if there is a guarantee the proposed benefits will be provided. It cannot be left simply to market forces to determine whether or not there will be a high level of rail use of the warehouses.
- 8.56 The Appellant has offered through the section 106 agreement to provide a minimum rail service for the first five years, (in summary, 1 train in the first year and 4 trains a day years 2 to 5). This is welcome but there is no sanction if this level is not achieved. There is no provision that the prospective occupier of each warehouse unit will use reasonable let alone best endeavours to use rail. These omissions are a major weakness.

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<sup>174</sup> SBC/IQ/15 paragraphs 9.19 to 9.30 set out the point in detail.

<sup>175</sup> GLD/5/C Appendix 2 Graphs A2.1 – A2.3. In cross examination Mr Hatfield agreed that the 9 trains forecast for SIFE was similar to DIRFT now but put this down to the slower turn over of traffic at a NDC. The turn over of traffic at a RDC would be twice as high because of the decreased handling time for more sensitive cargo.

<sup>176</sup> SBC/02 section 10.2

8.57 In conclusion, all three elements of the predicted rail traffic are extremely precarious in the circumstances of this case. Even if all the assumptions occur the traffic forecast in terms of tonnes lifted represents only a 26% rail mode share, compared to 8% for the national average. The detailed need case reveals that the site is unpromising for rail trade.

### ***Rail location***

8.58 The site is accessed via a branch line which connects with the GWML at West Drayton. Unlike the LIFE scheme, it is not proposed to provide a western link in order that trains could have direct access to the site from the GWML without going through London. Consequently SIFE could not offer direct train services to the Southampton or Avonmouth ports from the GWML, contrary to Goodman's own site assessment criteria<sup>177</sup>. The Western Route Study also shows trains from the Midlands, the North and Wales would not have direct access<sup>178</sup>. SIFE would not have proper connectivity with the SFN, whereas the NPS regards good connectivity to be essential.

8.59 All the significant elements of the predicted traffic would have to come through the congested areas of Inner London<sup>179</sup>, where Mr Ives acknowledged freight paths are difficult. TfL have residual concerns about practical deliverability of train paths, even though they did not wish to pursue the matter at the Inquiry. This routeing would frustrate the aims of Policy 6.14 of the London Plan and be contrary to the SPG which seeks to address the conflict between rail freight movements and passenger services.

8.60 Overall, there are considerable disadvantages for attracting traffic by rail. By contrast, there is a huge financial incentive for Goodman to build the scheme, notwithstanding the build costs. There is a ready market and excellent motorway links for those that want to use road to road logistics in this area. Even if the rail element is not a success, Goodman is in a vastly better position with a planning permission. DB Schenker Rail has to date made no financial commitment to the project. Their promotion and support for the scheme does not confirm actual rail benefits.

8.61 Even on the best case for the Appellant the delivery of any rail benefits will be very uncertain and delayed by air quality requirements and land acquisition. If the Heathrow third runway is approved no benefits would be delivered.

### ***Climate change***

8.62 The Appellant has estimated that on the best case SIFE would save 22.9 million kg CO<sub>2</sub>e per annum compared to a road only based scheme at the same location. The LIFE scheme had a best case saving of 25 tonnes with the predicted 14 trains, a saving that was described by the Inspector to be 'so tiny as to be insignificant' and 'roughly equivalent to one transatlantic flight a week for a year'.<sup>180</sup>

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<sup>177</sup> CD1.16 paragraph 2.48 and SBC/02 paragraph 6.7.8

<sup>178</sup> GLD/IQ/18 route diagram Figure 3.37 on page 76. Mr Hatfield explained that the most logical route from the Midlands and the North would be to use the West Coast Main Line to Wembley then to Acton and from London to SIFE.

<sup>179</sup> SBC/IQ/15 paragraph 9.40 details the routes through London.

<sup>180</sup> CD6.1 paragraph 13.373

8.63 There are number of reasons to be pessimistic about even achieving this insignificant benefit. The estimated saving relies on the assumptions about train usage being realised. They have been shown to be precarious. The forecasting model assumes all the origins and destinations are the same with and without rail, whereas the presence of rail is likely to encourage long distance importing<sup>181</sup>. No allowance has been made for empty running and trip end mileage of HGV vehicles. No account has been taken of the extra warehousing and logistics that would have to be developed in the area to serve the SRFI. There is no analysis of the implications from potential adverse consequences for passenger services, especially on the congested part of the network. The reality is that even the level of benefit estimated is unlikely.

### ***Employment and economic growth***

8.64 On the Appellant's own case in the event SIFE is not developed the freight concerned would be handled at other warehouse facilities located elsewhere in the Greater South East<sup>182</sup>. Consistent with the NPS, there would be benefits to the local economy but in reality the result would be to move jobs from warehouses in another area. The warehouses at SIFE by reason of their scale would be more efficient than those warehouses it would replace. A lower number of jobs could result. This wide level of displacement was not taken into account in the evidence of Mr Ward, who allowed only for a 10% displacement factor<sup>183</sup>.

8.65 Mr Flisher, correctly, did not regard the delivery of economic benefits to be a compelling factor<sup>184</sup>. Many schemes, such as offices or a call centre, could generate much greater economic benefits if the Government wished to release this part of the Green Belt. Whilst acknowledging the differences of the comparison, the Airports Commission found that a third runway at Heathrow would have a present value of £55 billion over the 60 years. The extra employment benefits, if any, add nothing or very little to the weight of the other considerations.

### ***Availability for development***

8.66 The opening of the SIFE development would be delayed to overcome air quality problems and the uncertainty over the 3<sup>rd</sup> runway at Heathrow could cause significantly longer delays. If the Government decides to proceed with the Heathrow option SIFE will never be built<sup>185</sup>.

8.67 Even without the Heathrow issue, there is considerable uncertainty as to when SIFE would become operational. Goodman do not own all the land required to build the scheme, raising doubts as to whether SIFE could be delivered in the short term. In these circumstances to grant planning permission is harmful to

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<sup>181</sup> An example given was bottled water being transported from France as opposed to drinking local Slough water.

<sup>182</sup> CD1.15 paragraph 9.2

<sup>183</sup> GLD/6/B paragraph 8.36

<sup>184</sup> GLD/3/B paragraph 8.103, where Mr Flisher attached some weight to economic benefits.

<sup>185</sup> Mr Stimpson stated in his proof that the current proposal is premature until it is known whether an alternative development of national importance will go ahead. However, later he acknowledged that technically it cannot be argued it is premature to grant planning permission for SIFE because the 3<sup>rd</sup> runway has no planning status – SBC/02 paragraphs 6.2.16 and 11.2.21.

achieving modal shift because other proposals are unlikely to come forward if it appears the required 3 or 4 SRFIs have been permitted.

### ***Other factors***

- 8.68 Other factors are insufficient to add very much to the positive case. Groundwater is only suggested to be of some weight by the Appellant over time. The LGIS deals with land use objectives and is a matter of subsidiary importance where Green Belt purposes are paramount. Under the Community Infrastructure Levy (CIL) regulation 122 test proposals offered in the section 106 agreement are necessary to enable planning permission to be granted and therefore they cannot be of great weight in the very special circumstances balance.

### **Very special circumstances**

- 8.69 The Government is absolutely clear that “substantial weight is given to any harm to the Green Belt”. Therefore in this case substantial weight should be given to the harm to the fundamental aim of Green Belt policy and the essential characteristic of openness. In addition there is the substantial harm to the first 3 purposes that Green Belt serves, namely to check unrestricted sprawl, prevent neighbouring towns merging into one another and to safeguard the countryside from encroachment. Each should be given substantial weight in accordance with the policy in the Framework. Very rarely can there be a case that does as much harm to a vulnerable part of the Green Belt. The other considerations would have to be overriding in order to clearly outweigh all the harm. The burden of proving the other considerations are of sufficient weight is with the Appellant.
- 8.70 There are four powerful reasons why there are not very special circumstances. The reasoning in Radlett by the Secretary of State made absolutely clear Radlett was a better site for a SRFI and a better proposal than Colnbrook. The pivotal consideration was the lack of alternative sites in the north west sector that would do less harm. Goodman realised that this line of reasoning would have serious adverse effects for promoting their own site and hence the wish to participate in the High Court challenge. If the reasoning of the Secretary of State in Radlett is correct there are not very special circumstances for a second SRFI in the north west sector and particularly one that is more damaging. Almost nothing can be read into the fact the Secretary of State did not rule out Colnbrook in that application but he came as close as one could ever expect on the reasoning of that decision. There is no reason for the logic adopted in the Radlett decision by the Secretary of State to change.
- 8.71 The LIFE decision is highly material. The site area and proposal were slightly different. However the similarities are more significant and include a location in the Strategic Gap, a comparable amount of warehousing, an intermodal and proposals for landscaping and a footpath improvement scheme. The changes that have occurred to the surroundings and the projects in the pipeline (such as WRATH) serve to reinforce SBC’s arguments that the area is vulnerable and subject to very severe development pressure.
- 8.72 The LIFE application was determined on the basis that a policy need for a SRFI was clear and when a specific need for a SRFI at Colnbrook was identified by the SRA’s freight strategy and strategic plan. Now there is the prospect of

Radlett being ready for first occupation and SRFI's have been granted permission at Howbury and London Gateway. The policy on the Strategic Gap has strengthened. The issue in LIFE of 'a situation requiring relief' was not supported subsequently by the Secretary of State in Howbury but this was only a part of the reasoning in LIFE. It was related primarily to a lack of trade for Willesden pointing to little need for LIFE.

- 8.73 Therefore considerable weight can be given to the Secretary of State refusing permission for a SRFI on a similar site in a very similar location when there was a recognised policy need.
- 8.74 The evidence in the need case has shown a lack of very substantial benefits. The proportion of goods in and out by rail would be small and would be much less than anticipated in the LIFE proposal<sup>186</sup> even if all the assumptions of the Appellant are correct. The evidence that the intermodal predictions would be realised can be given relatively little weight because of the lack of large logistics warehousing and heavy manufacturing in the area. In addition the location of the site has very significant disadvantages for attracting traffic by rail. The positive considerations such as a reduction in CO<sub>2</sub> emissions and employment were not put forward by the Appellant as compelling factors. Clearly if Heathrow 3<sup>rd</sup> runway is approved no benefits would be delivered.
- 8.75 Finally there is the pre-eminence of Green Belt policy. When read as a whole, the NPS is clear that unmet need will not be sufficient in itself without a convincing case. Paragraph 5.172 was inserted in response to consultation and is of critical importance<sup>187</sup>. It goes further than just restating Government Green Belt guidance and deals specifically with the case of finding there is only a Green Belt site to meet unmet need for a regional SRFI. It gives a warning in precisely the situation the Appellant is arguing in SIFE. There is no other planning policy which Governments have attached so much importance to for so long. Most recently in August 2015 the Government has stated its commitment to provide stronger protection of the Green Belt<sup>188</sup>. Apart from unmet need, the other considerations are insufficient to add much to the positive case. The positive case is not strong enough to amount to very special circumstances to justify a second and more damaging SRFI in the north west sector.

### **Strategic Gap**

- 8.76 Core Policy 2 must be given a meaning consistent with the interpretation given to the policy by the Court. The policy sets a high bar, is an additional policy restraint and cannot be discharged by a very special circumstances case. The policy cannot be applied only Slough wide.
- 8.77 Applying the policy test it cannot be essential to have the SRFI at the Colnbrook site:
- There is already a SRFI permitted in the north west sector.

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<sup>186</sup> CD6.2 paragraph 16 where the Secretary of State commented that only a small proportion of goods (25%) in to and (8.2%) out of the warehouses would be carried by rail and a high proportion of warehouse space would actually be used for road to road distribution.

<sup>187</sup> SBC/IQ/15 paragraph 12.46 to 12.51 provides the background and references.

<sup>188</sup> SBC/IQ/5

- It is not essential to be on the GWML, the site has no west facing rail link and all train routes would be through London. The site location is no better than on any part of the SRN.
- There are no nearby major distribution warehouses to serve the intermodal terminal and no particular manufacturers wanting to export through the intermodal.
- There is not a distinct consumer need and the warehouses will be serving a market covering two thirds of London.

8.78 The Strategic Gap is central to the Borough's spatial strategy set out in Core Policy 1. A damaging breach of Core Policy 2 leads to the conclusion that the proposed development is contrary to the development plan as a whole, a matter of considerable importance to decision making.

## Conclusions

8.79 There is definite and permanent harm to the Green Belt. There is definite and permanent harm to the Strategic Gap, which is a particularly sensitive part of the Green Belt and deserving of even stronger policy protection as recognised by the High Court and the Secretary of State. There is clear conflict with the development plan. The case for the proposal is one of uncertain benefits. Policy does not justify a change of approach to that adopted by the Secretary of State at Radlett. The other considerations are not sufficient to clearly outweigh Green Belt harm and the failure to comply with the key development plan policy on the Strategic Gap.

## 9. THE CASE FOR HELIOSLOUGH LTD<sup>189</sup>

9.1 Helioslough agreed that it would not be appropriate for the SIFE Inquiry to consider further the comparative merits of the Radlett and SIFE sites in view of the history of proceedings on the Radlett appeals and the Secretary of State's decision that Radlett is a preferable location to Colnbrook. Goodman and Helioslough agree that "in order for there to be 'very special circumstances' for SIFE the Appellant would need to demonstrate that there is such a need for SIFE in addition to the Radlett SRFI to outweigh the harm to the Green Belt and any other harm"<sup>190</sup>. Against this background, Helioslough's written statement is confined to (i) planning policy issues raised by the Appellant and SBC in respect of Slough's Strategic Gap policy, and (ii) the national policy framework on the development of a network of SRFIs.

### *Strategic Gap Policy*

9.2 A key fact in the planning history of the Colnbrook site is that a previous proposal for a SRFI was dismissed on appeal by the Secretary of State in 2002. One of the main reasons for the decision was harm to the purposes of Green Belt and most particularly to the London / Slough Strategic Gap. The designation and recognition of the importance of the Strategic Gap had its origins in the Berkshire Structure Plan (1991-2006).

<sup>189</sup> HS/01

<sup>190</sup> CD7.9 paragraph 1.16

- 9.3 The continued significance of the Gap is set out within Core Policy 2 of the CS adopted in 2008. As part of the public examination process the Inspector specifically considered whether Core Policy 2 was overly restrictive and concluded that it was sound. Therefore the Green Belt in this area has been recently considered and the Strategic Gap designation is fully up to date and tested in the Core Strategy.
- 9.4 The high weight given to this policy designation in both planning policy and the previous appeal decision is fully justified because it is critical to the role that the Metropolitan Green Belt was first established to achieve, namely to check the continuous sprawl of London's built up area. Consequently the appeal scheme at Colnbrook is subject to an up to date and fundamentally different policy position to that which applies at the Radlett site.
- 9.5 The Secretary of State who, when granting permission for Radlett, accepted the High Court judgement that the Strategic Gap policy imposes an extra layer of policy protection. The Appellant now argues that Core Policy 2 is inconsistent with the Framework and in these circumstances the policy cannot be given full weight. St Albans City and District Council raised a similar argument during the fourth round of correspondence on the Radlett appeal determination. Hence the Secretary of State had the issue well in mind when making his decision. There has been no material change in circumstances since July 2014 that would justify reaching a different conclusion. No policy advice in the Framework prohibits the adoption of such designations and the Framework has a core principle of a plan led approach to decision making. The Strategic Gap is a key part of Slough's plan to which significant weight should be attached.

#### *NPS*

- 9.6 The NPS identifies a compelling need for an expanded network of SRFIs. Paragraph 2.58 refers to the particular challenge of finding sites to serve London and the South East, rather than a particular need as in the 2011 Interim SRFI Policy Guidance. This should be read in context and should not be interpreted as weakening the support of Government for establishment of a network of SRFI to serve London and the South East. Any assessment of the need for a second SRFI in the north west sector should give significant weight to the Government's view that there is a compelling need to expand SRFI provision throughout the UK.

#### *Radlett timeframe*

- 9.7 On the specific matter of the timeline for the SRFI at Radlett, Helioslough is actively pursuing development pursuant to the lawful permission.<sup>191</sup> Applications for the discharge of pre-commencement conditions and a reserved matters application will be submitted in early 2016. It is anticipated that these applications will be determined by autumn 2016, with construction commencing shortly thereafter. Based on the most recent advice, the scheme will be ready for first occupation in the first/second quarter of 2018. Discussions with Network Rail and the highway authority are on going and completion of all necessary works is anticipated to be consistent with this timeframe. Further

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<sup>191</sup> HS/IQ/1 paragraphs 2 to 7



negotiations with parties on land sale will resume now that a judicial review is not being pursued.

## **10. THE CASE FOR INTERESTED PARTIES**

10.1 This section focuses on the main points of the cases presented at the Inquiry as representing the most up to date position of the parties, with reference to earlier representations as appropriate.

### **Colne Valley Park Community Interest Company<sup>192</sup>**

10.2 The concept of the Colne Valley Park dates back to the late 1920s and early 1930s when large tracts of land were acquired under the Colne Valley scheme in response to growing development pressures and the awareness of a need for a green lung for London. Subsequently the Green Belt was formalised and following the 1947 Town and Country Planning Act reliance was placed on negative planning control. It became apparent a more positive approach was required and the Park was established in 1965. The Park covers 43 square miles and stretches from Rickmansworth in the north to Staines and the River Thames in the south, east to Uxbridge and Heathrow and to Slough and Chalfont in the west.

10.3 The Colne Valley Park recently reviewed its governance and operations and a new Colne Valley Park Community Interest Company (CIC) was formed on 5 July 2012. The mission statement for the CIC is: "The distinctive characteristics of the Colne Valley Park will be a sustainable network of high quality countryside, waterscapes, villages, green spaces and other amenities that provide a regionally significant destination for recreational, sporting, educational and cultural pursuits. The Colne Valley Park will be a pleasant environment in which people live, work and play that also supports a thriving rural economy and a rich range of biodiversity. The green infrastructure of the Colne Valley Park and the built landscape of West London will blend in an integrated and sensitive manner."

10.4 There are a large number of stakeholders in the Colne Valley Park, including local authorities, charities, businesses and user groups. Some 3 million people live within 10 miles of the Park and some 40,000 people live or work within the Park. The Park receives over 2 million visits each year. It contains 7 local nature reserves and 13 SSSIs, as well as having over 270 km of paths and over 200 km of rivers and canals. Since 1965 headline achievements include the establishment of 5 country parks and a visitor centre at Denham, and the acquisition of 2 ancient woodlands in Buckinghamshire.

10.5 The CIC is very much dependent on public and corporate subscription. Therefore it is vital that for continued growth of support that the CIC delivers on its strategic objectives and the attractiveness of the Park is maintained at the least. The impacts of the proposed development on the objectives are as follows.

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<sup>192</sup> The main points of the statement (CIC/1) read at the Inquiry are reported, together with the additional comments made in cross examination. CD9.2 includes the representations made at the appeal stage in June 2012 and at application stage in February 2011. CD9.3 includes the representation of May 2015 that outlines the implications of the formation of the CIC.

- 10.6 *Objective 1: Maintain and enhance the landscape, historic environment and waterscape of the Park in terms of their scenic and conservation value and their overall amenity.* The development would result in the loss of 78.8 ha of Green Belt land within the Colne Valley Park. The site also coincides with the narrowest section of the Park that separates Greater London from Slough. The CIC is in full accord with SBC on development plan policy that protects the Strategic Gap. The development would fragment the integrity of the landscape, negating the openness of the views and drastically affecting the quality of the Colne Valley Trail. Significant measures are required to encourage users of the trail to continue to use the area despite the perception of a commercial enterprise on its western edge. It is vital that off site measures to mitigate for loss of amenity occur within or adjacent to the current boundary defining the Park.
- 10.7 *Objective 2: To safeguard the countryside of the Park from inappropriate development. Where development is permissible it will encourage the highest possible standards of design.* The proposal is inappropriate development on Green Belt land. The visual aspect will be of 3 large warehouses with tall gantry cranes. It will be impossible to either disguise or blend into the landscape. The design will be obtrusive to the landscape from all view points, particularly travelling west on the M4. The view from Harmondsworth Moor Country Park will be dominated by the development.
- 10.8 At present the site is open and accessible and provides a pleasant route from Colnbrook High Street to Richings Park and Iver. The development would remove much of the openness of the landscape, leaving a footpath beside a secured industrial site. It would negate the first three of the five purposes of Green Belt, as set out in paragraph 80 of the Framework and it would seriously compromise the two remaining purposes.
- 10.9 *Objective 3: To conserve and enhance biodiversity within the Park through protection and management of its species, habitats and geological features.* The restored land of the main area of the site has been left to mature naturally and has been regularly grazed by horses. Development would destroy any existing biodiversity gains that may have occurred over the years. The site margins to the east and north have an established ecological value. The proposed enhancement of Old Wood and along Colne Brook and Horton Brook is encouraging<sup>193</sup>.
- 10.10 *Objective 4: To provide opportunities for countryside recreation and ensure facilities are accessible to all.* The ability to satisfy this objective will be restricted to the use of a footpath/bridleway following the boundary of a high activity industrialised compound. The site will become an unattractive access route to other areas within Colne Valley Park and be likely to discourage use of a recreational route<sup>194</sup>.
- 10.11 *Objective 5: To achieve a vibrant and sustainable rural economy, including farming and forestry, underpinning the value of the countryside.* With some

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<sup>193</sup> Mr Nye did not take issue with the consultation response by Natural England.

<sup>194</sup> In cross examination Mr Nye accepted that the proposed improvements to the public rights of way to the north, south and around the site would be on balance better than the current provision, although the loss of openness was a strong objection.

investment the quality of the site land could be upgraded and brought into use for either commercial grazing land or recreational and sport based activities for community use.

10.12 *Objective 6: To encourage community participation including volunteering and environmental education. To promote the health and social well-being benefits that access to high quality spaces bring.* The Colne Valley Park CIC, along with its managing agent Groundwork South, organise and take part in many conservation tasks within the local vicinity of the site. The activities are a key driver in getting local communities involved in their green spaces<sup>195</sup>.

### *Conclusion*

10.13 This particular area of the Park is under increasing development pressures. The potential expansion at Heathrow Airport challenges the viability and the sustainability of the proposed development. The very special circumstances test for building on the Green Belt does not stand up to scrutiny given that the SIFE facility will become inoperable when Heathrow gives notice of its expansion.

10.14 Should the Secretary of State be minded to allow the appeal the CIC request that conditions require (i) a community liaison group to be convened by the Appellant during the construction phase, and (ii) continuation of the liaison group post construction to monitor adherence to a code of conduct by tenants of the SRFI and by contractors operating vehicles at SIFE. With regards to mitigation measures, a Pegasus crossing is required over the A4 Colnbrook Bypass to conform with the use of the bridle path. This would facilitate improvements of the route from the south<sup>196</sup>.

### **Colnbrook with Poyle Parish Council**<sup>197</sup>

10.15 Colnbrook is in a semi-rural area where land is still farmed, despite the proximity to Heathrow and Slough. Residents of the village value the rural heritage and green open spaces and precious guard the aspects of rural life. The appeal site is an amenity space on the edge of the village where residents can go without having to fight through traffic. SIFE would have a devastating impact on the communities within the Parish in terms of loss of amenity, traffic congestion, air pollution, noise and damage to local character and the viability of a semi-rural community.

10.16 There is the prospect of the local community having to face the cumulative impacts and loss of amenity from the construction of three major developments – WRATH, the Heathrow Express Depot at Langley and the M4 Smart Motorway scheme. Consideration should be given to how much a community should reasonably bear in term of current development pressures and loss of amenity.

### *Green Belt and Strategic Gap*

10.17 All five of the guiding principles of Government Green Belt policy apply in the SIFE appeal. The first objective is to check the unrestricted sprawl of large

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<sup>195</sup> Mr Nye agreed that taking an overall view the proposed LGIS and off-site works were acceptable.

<sup>196</sup> REP/IQ/4 sets out the CIC's request for planning conditions.

<sup>197</sup> REP/IQ/2. The earlier written representations (June 2012 and September 2011) are included in CD9.2.

built-up areas. The SIFE development site falls within and is a significant part of the last piece of open green space between London and its surrounds along the busy A4/M4 corridor, which is why it has been designated as a Strategic Gap. The area is vulnerable and under constant development pressure.

10.18 Green Belt exists to prevent neighbouring towns from merging. This would be the case with the merging of Greater London with Slough, both fast growing urban areas, each having their distinctive features and characteristics.

10.19 Green Belt also exists to safeguard the countryside from encroachment. The development site is predominantly grazing land, which has supported cattle but currently has over 100 horses grazing. It is also parkland, originally part of the Richings Park country estate. Latterly the land has come within the Colne Valley Park and has been opened up for public amenity, including footpaths, bridleways and watercourses for fishing.

10.20 Green Belt is intended to preserve the setting and special character of historic towns and villages. Colnbrook retains the features of being a historic coaching village, with 27 listed buildings. To be sustainable Colnbrook's semi rural character requires green open farmland for its setting. The visual impact of SIFE would completely dominate the surrounding landscape by reason of the two 25 m high gantries, the three giant warehouses and a container park with up to 1000 multimodal freight containers stacked three units high. The physical presence and appearance of SIFE would convince most local residents and passers by that strolling or riding around the perimeters of the site would not take them into the countryside, no matter what improvements to rights of way are being offered in mitigation.

10.21 In dismissing the LIFE appeal reference was made to the visual impact from elevated viewpoints east of the M25 upon the function of the open land. This applies to SIFE also in respect of views down onto the site from Harmondsworth Moor, for those travelling north on the M25, west on the M4 and using the A4. The development would be visible from many homes in Colnbrook on the skyline. The development would make using the Colne Valley Trail in this part of the Park less attractive.

10.22 Green Belt status is meant to assist in urban regeneration. The development site is on restored agricultural land, used in the past for mineral extraction and landfill. The area is historically renowned for attractive garden parklands and the site has the potential to be enhanced, with greater biodiversity interest through natural maturing.

#### *Need*

10.23 The Appellant has to demonstrate there is an exceptional need for SIFE in the Green Belt is a vulnerable Strategic Gap. However, SIFE is not on a major rail freight route and all rail freight would have to go into West London first before proceeding to its destination. London, and its nine million customers, is deemed too close to the SIFE site for rail freight between the two to be economically viable. Hence Goodman's proposal envisages only 25% of freight coming in to the site by rail and 0% leaving by rail on full operation, a much lower proportion than the previously rejected LIFE proposal.

- 10.24 There is no compelling evidence to show that Radlett and SIFE would be complementary and serve the interests of each other. The likelihood is that the SRFIs would be competing alternatives. Their close proximity means they will be going after the same market but Radlett is better placed on existing freight routes to the Midlands and will have economies of scale. There is no direct freight route by rail linking the two. Claims that the Thames Gateway SRFI might send freight by rail to the SIFE terminal is highly speculative and to do so would require by-passing Radlett.
- 10.25 Goodman also acknowledges that SIFE is unlikely to take any freight from the port of Southampton, South Wales or the West Country. The claim that SIFE will be part of a national network, serving a national or even a regional need, is not supported by robust arguments. Therefore it is hard to see where exactly the rail freight for SIFE will come to fill the proposed 4 trains a day, let alone the 9 x 775 m trains SIFE will handle thereafter. The trains are required to run full of freight in order to demonstrate the modal shift from road to rail that will produce a net benefit nationally. Without a credible position within a network of SRFIs, SIFE would not serve a national or even a regional rail freight need.
- 10.26 Since the original planning application was refused a number of new rail projects have come forward utilising the western mainline out of Paddington to a much greater degree than before – extension of Crossrail, WRATH and the relocation of the Heathrow Express Depot to Langley. It may be possible in theory to find time slots for freight trains to access the SIFE site but this is often different to what may be achieved in practice or what is economically viable. Moreover, there is a steady and substantial background increase in demand for passenger train space and there are still further new rail projects in prospect that will crowd out freight capacity on the line serving SIFE. Availability of slots looks questionable and is not robustly guaranteed.
- 10.27 The long held view of the Parish Council is that the proposal uses the promise of achieving a significant shift of freight traffic from road to rail as a justification for building large warehouses on Green Belt land. The proposed modal shift is not deliverable. Conversely, SIFE will by its very nature act as a magnet for HGVs. An extra 3230 lorry movements per day are forecast in Colnbrook alone and this in an area where road congestion and vehicular air pollution are at their worst anywhere in the country. Over 1000 people live in the vicinity of the Brands Hill AQMA and their health should be paramount.

*Traffic congestion and air pollution*

- 10.28 Monitoring data does not indicate the current poor air quality around Colnbrook and Poyle is being brought under control, despite EU Air Quality Directive limits becoming effective since 2010. Heathrow Airport's road congestion and air quality measures have been shown not to work, resulting in little confidence that SIFE could do better.
- 10.29 Freight vehicles are likely to give off greater emissions per journey and they are more likely to be powered by diesel engines than the average road user. DEFRA's evidence to the Airports Commission pointed to the failure of modern diesel engines to deliver expected NOx emission reductions and warned against accepting arguments that the next generation vehicles would be less polluting. To do so would seriously understate the pollution they would cause.

10.30 The Parish Council also has grave concerns about the ability of the A4 at Brands Hill to accommodate the extra traffic SIFE will generate and the omission of the mitigation measure of turning the A4 through the parish into a dual carriageway. The stretch of road from Junction 5 of the M4 to the Colnbrook Bypass is overloaded even beyond peak times and is unsafe in its new three lane configuration. The considerable concerns of Hillingdon Borough Council are noted and probably apply equally to the Colnbrook area.

#### *Quality and amenity of the land*

10.31 The Parish Council disputes the Appellant's description of the land as low value and poor quality Green Belt land. The site is appreciated for conveying a sense of openness that is the very essence of the countryside. Every year the land is gaining in its biodiversity value. Residents and those from further afield use the land and its watercourses as an informal multipurpose recreational facility for walking, dog training, family picnics, fishing, nature study and many other activities. There is a long established clay pigeon shooting club and horse grazing. Users include organisations like Colnbrook Youth Club, local schools, scouts and guides, anglers and angling clubs and the Ramblers Association.

10.32 As development in the area intensifies and traffic congestion worsens the amenity value of the land will increase because of its scarcity and closeness. The Parish Council has talked to the Colne Valley Park CIC and other bodies about developing plans for enhancement of the amenity land north of the Colnbrook Bypass linked to the restoration of the Biffa lands. Goodman's proposals to enhance footpath and bridleway access around the edges of the SIFE complex will not be a substitute for walking through open countryside with open views across the landscape.

10.33 The open countryside at this location also acts as flood plain and the proposal would result in some 40 ha being covered in concrete. Substantial flooding occurred in Colnbrook in 2014. The Parish Council's experience is that flood alleviation schemes do not necessarily work and may just succeed in pushing flood water elsewhere. Preserving natural flood plains is the obvious answer to avoiding new threats from flooding.

#### *Conclusion*

10.34 The appeal should be dismissed for being inappropriate development in the Green Belt for which there is no national need. It is not essential on the site proposed and it will cause significant harm to the countryside, Colne Valley Park, to the existing road networks and to local people. It is contrary to many Local Plans and Planning Policy Guidelines.

10.35 If the scheme is to be allowed, restricting conditions and mitigations should be imposed. These include safeguarding and enhancing access and amenity of the remainder of the Strategic Gap at Colnbrook, funding for making the A4 dual carriageway through the parish, with associated junction improvements and a robust travel plan. Limits should be placed on the number and timing of HGVs accessing and leaving the SIFE complex until EU air quality emissions limits are achieved in the Brands Hill AQMA. The subdivision of the warehouse units should be precluded to avoid additional traffic generation and restrictions imposed on use of the warehouse space if full rail usage is not achieved. There also should be a condition preventing building work commencing on the SIFE

site until Parliament has ruled out building a Third Runway at Heathrow on the same land in order to minimise waste and to minimise harm to the environment and to local people.

**Colnbrook Community Association (CCA)**<sup>198</sup>

10.36 CCA has some 230 members and 520 friends across all communities of the Colnbrook with Poyle parish. The submissions of residents the Colne Valley Regional Park CIC and Colnbrook with Poyle Parish Council are supported. CCA's comments concentrate on the value of the land to residents of Colnbrook, Poyle, Brands Hill and Westfield.

10.37 Colnbrook is a collection of individual village-like neighbourhoods and as a community we do not fit in with Sough town. The 'ginormous' scale of SIFE was only realised on the first day of the Inquiry when comparison was made to Heathrow Terminal 5 and other very large buildings locally. The development will not be able to be hidden by trees. If the scheme goes ahead Slough will be subsumed into Greater London in reality rather than name. This treasured area of Green Belt is strategically important and should be retained.

10.38 The site may be poor land but it is all that we have. Residents see it as an area of fresh air, reduced noise, running water, nature, wildlife and a view across open countryside. Residents use the area as an informal multipurpose facility for walking, dog training, family picnics, fishing, nature study and many other activities. The Colnbrook Youth Club uses the land in view of its diverse nature for photography and nature sessions and to introduce the young people to the benefits of the open countryside. Recent surveys indicated 120 to 150 people per day use the facilities. Recreational use of the land starts well before sunrise and continues well into the late evenings, particularly during the lighter months<sup>199</sup>.

10.39 More generally, the community is currently blighted by 6 major projects due to commence construction within the next five years. In addition, the health of the community suffers from the three waste processing plants. In terms of air quality and pollution, the areas of Colnbrook and Brands Hill are amongst the most polluted in Europe. The costs of cleaning up the appeal site are likely to be very high.

10.40 In the event the development is allowed, mitigation measures are requested. Construction should not to commence until air and noise quality meets World Health Organisation limits and it is demonstrated that these and any new limits will not be exceeded on penalty of closure. A section 106 agreement should require high quality air and noise monitoring and an obligation to cover the full cost of all necessary local infrastructure changes to roads, drainage and schools. Goodman should provide the community with freehold land sufficient to house sports facilities, club houses and a new community centre. Any permission should be deferred until the Heathrow Airport expansion issue is resolved.

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<sup>198</sup> The full submissions of the CCA are found at REP/IQ/3, CCA/1, CD9.3.

<sup>199</sup> GLD/4/D paragraphs 1.52 to 1.59 are the Appellant's rebuttal on these matters. At the Inquiry Mr Burke, in response to questions from Mr Williams, confirmed that he had not looked at the LGIS package or the ES chapter on land contamination.

### **Richings Park Residents Association (RPRA)<sup>200</sup>**

- 10.41 Richings Park is an area of some 700 dwellings within the Colne Valley Park and surrounded by Green Belt.
- 10.42 Richings Park has changed over the years and already suffers from abnormal numbers of HGVs. The RPRA object to any proposal that will increase HGV traffic. A number of potential developments will impact on Iver during construction and operation, such as WRATH and the relocation of Heathrow Express Depot to Langley sidings. A real concern is that the SIFE scheme will increase HGVs along North Park and Richings Way as a result of construction and more so the operation of the site. This route is already at saturation point and a traffic survey has shown it to be the highest bearing HGV unclassified road in the country.
- 10.43 The prevailing wind is from the south west and therefore there is a greater likelihood that dust from construction will be carried to the houses of Old Slade Lane, The Poynings and The Ridings. With reference to the ES, other developments in the area have not been taken into account when assessing the cumulative impact of SIFE on Richings Park where there is already poor air quality. The proposed phasing of development is a passive form of mitigation and so is assuming EU compliant HGVs.
- 10.44 If SIFE is granted permission conditions are sought to ensure HGVs used in construction and when the site is operational are powered by Euro VI (or lower emission) engines. Noise monitoring should be conducted during construction and mitigation may be necessary for residents of Old Slade Lane, The Poynings and The Ridings. RPRA wish to be represented on any residents' liaison group to resolve any issues arising during construction.
- 10.45 In common with other objectors we see the amount of rail traffic is likely to be minimal due to capacity constraints on the main rail line. The SIFE facility in operation will be predominantly a road to road transfer station putting more HGV traffic onto the local road network. Richings Park already suffers from intensification of HGV traffic from the local industrial parks and is a rat-run when there is congestion on the M25, which often happens. A relief road for Iver has the support of Buckinghamshire County Council and South Bucks District Council. A contribution from the Appellant is requested towards the cost of such a scheme.
- 10.46 The development will effectively remove the Green Belt open space between London and Slough along the A4 corridor<sup>201</sup>.

### **Stop SIFE<sup>202</sup>**

- 10.47 The objections to the project concern traffic congestion, impact on local infrastructure, loss of Green Belt, air quality and noise<sup>203</sup>. The development would be completely disproportionate and would transform the village from a semi-rural to urban environment. The limited rail use does not justify the

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<sup>200</sup> The submissions in full are found at RPRA/1, CD9.3 (page 2)

<sup>201</sup> This objection was made in the first representation included in CD9.1.

<sup>202</sup> The main points include the submissions made at the Inquiry.

<sup>203</sup> The initial objection on these matters is included at CD9.1.



significant loss of Green Belt at its most fragile point. It is disappointing that the Green Belt is still a target when brownfield land is available. In Poyle, DHL has recently bought up a lot of small units to be replaced by one large unit<sup>204</sup>. An alternative to SIFE would be to re-establish through rail links to the similarly sized Poyle industrial estate in order to revitalise the area.

10.48 The loss of the site as an amenity would impact on a large number of residents locally. A survey of visitors to the site over 3 days showed usage was surprisingly high despite the inclement weather<sup>205</sup>. The site is not a neglected wasteland and since the end of its use as landfill over two decades ago the land has been re-established as the green lung of the village. There is no equivalent open space within a significant radius of the village and there is a lack of alternative locations to enjoy recreational activity nearby. Major physical barriers and poor transport links mean that facilities in other parts of the Borough are almost unreachable for a number of local residents. Public health figures show that parts of the Colnbrook with Poyle ward have higher than average obesity levels.

10.49 The community is suffering from constant pressure for major development, which leads to fatigue and resignation. People have sold up and moved on and the Census has shown that in the last 10 years Colnbrook has gone from having a high level of home ownership to having the lowest level in Slough.

10.50 Residents feel let down by the agreement between SBC and the Appellant on air quality and highways impact. The proposed restriction on HGVs going through Brands Hill after 2300 hours will not make a difference. Colnbrook Bypass or the High Street is a rat run between two motorways and the whole area seizes up. The access arrangements at the site will not be adequate. The inclusion of two new accesses from Colnbrook Bypass and new traffic lights will dramatically slow down the Bypass. No road widening schemes are described and junction improvements will only alleviate the key pressure points. Extra lanes to the Bypass must be a condition of any approval.

### **Iver Parish Council<sup>206</sup>**

10.51 Iver village sits entirely within the Colne Valley Park. Iver Parish Council supports the Park's objectives to protect and enhance the Park for the benefit of local communities and those in neighbouring authorities.

10.52 The area is beset with development. To the north of the village Pinewood Studios has been granted planning permission for major development on some 40 ha of land in the Green Belt. To the south of Iver is the SIFE proposal. There are several other developments proposed, any one of which will impact on Iver during construction and/or operation.

10.53 Iver village already suffers from abnormal numbers of HGVs, some associated with construction plant movements as a result of development in adjoining authorities. The one route through the village is along the High Street where

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<sup>204</sup> SBC/IQ/3 provides details of the development.

<sup>205</sup> SS/1 details the survey and recreational use.

<sup>206</sup> The written submission is found at IPC/1. Earlier submissions, on essentially the same main points are included in CD9.3.

there are schools, the church and a doctors' surgery. The place suffers from vibration and noise and residents feel intimidated by the vehicles. Iver is used as a rat run if the motorways become blocked and therefore SIFE could lead to serious traffic issues.

10.54 If SIFE is permitted the south of Iver, especially residents of Richings Park, will suffer serious detrimental effects associated not only with traffic but also in relation to air quality, noise, lighting and vibration. The Parish Council has similar concerns to those expressed by RPRA in relation to ensuring adequate mitigation on air quality and noise.

10.55 In the event the appeal is allowed, consultation with Buckinghamshire County Council would be necessary to assess the potential diversions and closures to cause traffic disruption on roads in Iver. The Parish Council requests representation on a residents' liaison group to resolve issues during construction. During operation tenants and contractors operating vehicles at SIFE should be required to adhere to a code of conduct. A routeing arrangement should be put in place to ensure HGVs remain on the major highway routes. In the alternative, the Appellant should make a contribution to the County Council towards the provision of a relief road to route traffic away from the local villages of Iver Parish<sup>207</sup>.

#### **Written representations on the appeal<sup>208</sup>**

10.56 Campaign to Protect Rural England found no merit in the proposal. The objections focussed on the loss of the Strategic Gap, an inadequate alternative sites assessment, the primarily road to road based distribution facility, the failure to recognise the value of the site for wildlife and local ecology.

10.57 Councillor James Walsh wrote on behalf of many Colnbrook residents and enclosed a copy of a village wide petition against the SIFE plans, signed by over 300 people in 2010. The objections were based on the unacceptable erosion of the fragmented Green Belt, the loss of the Strategic Gap between Slough and Hillingdon, the almost complete reliance on a congested road network and the consequence for the health of local people in an already polluted area.

10.58 Colnbrook Residents Association supported the objections of Colnbrook with Poyle Parish Council and SBC.

10.59 Denham Parish Council fully supported SBC's reasons for refusal and South Bucks District Council's opposition. The proposals were seen as a breach of Local Plan policies that are designed to protect the amenities of local residents.

10.60 The London Borough of Hillingdon raised strong objections on grounds related to traffic, railway noise, rail vibration, air quality and impact on the Green Belt<sup>209</sup>. It was considered that the volume of traffic generated would have an adverse impact on the surrounding road network. Particular concern was expressed about the impact on the A4/A3044 junction and the robustness of the

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<sup>207</sup> REP/IQ/5 is the most recent representation on planning conditions.

<sup>208</sup> The representations are primarily in CD9.2, although when previous objections are reaffirmed reference may also be required to CD9.1.

<sup>209</sup> The most up to date representation dated 7 July 2015 takes account of the EA Addendum – see CD9.3. The representation dated 11 June 2012 is included in CD9.2

Transport Assessment and the modelling. Furthermore, the Transport Assessment failed to demonstrate that freight would be moved by rail or that modal change benefits would arise from the operation of SIFE. On air quality, the increase in traffic volume and/or congestion would add to the burden on an area where the EU limit value is exceeded. Reference was made to the fact that future year predictions on a downward trend in concentrations are not being realised in practice in Hillingdon, especially in areas close to major roads. The proposed control measures were not considered sufficient to ensure the increase in vehicle movements will not add to the local air quality burden. The revisions to the LGIS did not overcome the original Green Belt objection or the Colne Valley Partnership original objection.

10.61 South Bucks District Council was of the view that the proposals for SIFE would be contrary to objectives of Core Policies 6 and 16 of its Core Strategy to restrict the amount of HGV traffic in the residential areas of Iver and Richings Park. The representation described the proposal as a road to road freight facility for which very special circumstances were not been demonstrated.

10.62 There were nine letters of objection from local residents. In summary the objections concerned the effect on the environment through loss of Green Belt land, increased traffic, air and noise pollution and the need to retain the land for recreational purposes. The comment was made that hardly any rail freight would occur.

10.63 Heathrow Airport Limited. The initial comments were made as an interested neighbour. No objections were raised, although conditions were requested in respect of phasing and completion of the proposed highway works<sup>210</sup>. The need to ensure the WRATH is not in any way compromised by the appeal proposal was a matter identified in the May 2015 response<sup>211</sup>.

10.64 Following confirmation that the Inquiry would proceed as arranged in September 2015, Heathrow Airport Limited confirmed its position on two matters<sup>212</sup>. In terms of the physical relation of the appeal proposal to its proposal for a third runway, the two developments are shown to be incompatible. Therefore it is maintained that the appeal proposals, if consented and constructed in their current form, would affect the implementation of a nationally significant infrastructure project, of far greater importance for the nation. Secondly on the matter of deferral of a decision, the Airport Commission's recommendation is stated to be a material consideration. In deciding on the weight to be attached to this consideration attention is drawn to the Commission's unanimous and unambiguous recommendation to expand Heathrow as the best option for meeting the UK's international connectivity. It is argued that unless there are other planning grounds on which the Secretary of State is minded to dismiss the appeal, no decision should be taken without further consideration of the status and weight to be attached to the Airport Commission's recommendation at the relevant time. It is suggested that this may require supplementary evidence to be introduced on the matter.

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<sup>210</sup> CD9.1.

<sup>211</sup> CD9.3

<sup>212</sup> REP/IQ/1

- 10.65 Transport for London. TfL is the highway authority for the A4 to the east of the M25. It also has a wider role in relation to transport strategy and management, including responsibility for the successful delivery of Crossrail. The comments made by TfL in May 2015 were updated in July 2015 following correspondence with the Appellant's consultants and the provision of additional information in relation to the theoretical compatibility with the Crossrail Track Access Option<sup>213</sup>. Although TfL and Crossrail have some concerns in relation to practical deliverability, it is not an issue they wished to pursue at the Inquiry. A similar position has been reached on the practical deliverability of train paths sought for freight services into the proposed interchange. Their concern about trains from the west using capacity to run round to return to West Drayton has now been addressed.
- 10.66 TfL has not reviewed the traffic modelling in detail. It is satisfied that planning conditions, planning obligations or separate highway approvals works will secure the requirements for improvements to the A4/Stanwell Moor junction, travel plan delivery and service plan and construction logistics plan. The expectation is that caps on overall tonnage moved by road, daily HGV levels and peak HGV movements and minimum targets for the proportion of rail freight will be secured to ensure compliance with London Plan policy to deliver modal shift from road to rail.
- 10.67 Crime Prevention Design Advisor. Concern was raised over the inadequate consideration given by the design and access statement on how crime prevention would affect the function of the site. In the event permission is granted, a request was made for the provision of an evidential HGV weighbridge available for use by VOSA and the Police, to be funded and maintained by the appellant<sup>214</sup>. Provision for funding should be included in a section 106 agreement.
- 10.68 Biffa drew attention to the fact that the application site boundary overlaps the boundary to its landfill site and the implications this may have on the approved restoration scheme and any necessary mitigation arising from excavation.
- 10.69 The written representations made on the planning application in 2010 raise no additional matters of significance<sup>215</sup>.

## **11. PLANNING CONDITIONS AND OBLIGATIONS**

### **Planning conditions**

- 11.1 A draft list of conditions was prepared before the Inquiry and was subsequently amended<sup>216</sup>. The revised list formed the basis of a round table session during the Inquiry. Discussion focussed on whether conditions could apply to and control proposals for the adjacent blue land in the Appellant's ownership; the use of planning conditions or provisions within the section 106 agreement to secure the LGIS, ecological mitigation and improvements to public rights way and other footpaths; the need to secure community liaison during the

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<sup>213</sup> CD9.3

<sup>214</sup> A weighbridge is required by condition 5, Schedule 1.

<sup>215</sup> The representations are collated in CD9.1 and included in the Committee report at CD2.1.

<sup>216</sup> CD7.7, GLD/IQ/4, GLD/IQ/27, GLD/IQ/28. The list included conditions recommended by consultees, (SBC/02 paragraphs 11.3.1-11.3.3)

construction phase and adherence to a code of practice during the operational phase; the routing of HGVs during the construction and operational phases; the removal of permitted development rights. By the end of the Inquiry there was a substantial measure of agreement between the Appellant and SBC on a list of planning conditions in the event the appeal is successful. The Environment Agency, having reviewed the amended ES, confirmed that it did not object to the proposed development subject to the inclusion of a number of conditions in any permission granted<sup>217</sup>. The following paragraphs refer to the draft conditions in Document GLD/IQ/28.

- 11.2 The standard time limits for commencement of development and submission of reserved matters were agreed. Requiring the development to be carried out in accordance with the submitted parameter plans would ensure no material departure from the scheme considered in the EIA.
- 11.3 The LGIS would apply to land within the red line application site but also the adjacent blue land in the Appellant's ownership. In order to address SBC's concerns about future long term management, the section 106 agreement (Schedule 4) includes an additional Part III to cover landscape and green infrastructure works<sup>218</sup>. As a result a condition identifying details to be covered by the landscape reserved matters is no longer necessary.
- 11.4 Site access and A4 Colnbrook Bypass highway works are covered by the section 106 agreement and there was agreement a planning condition on such matters is not necessary.
- 11.5 Conditions requiring details of the proposed rail infrastructure, piling techniques and a scheme to deal with the risks associated with contamination of the site were agreed for reasons of public safety, amenity and pollution control.
- 11.6 The ES identified a need for a CEMP and the matters to be included within it<sup>219</sup>. It was agreed that the proposed condition should better reflect the content of the ES and include provision for a community liaison group. In addition, a condition requires the establishment and operation of a liaison group to provide a forum for the exchange of information and to address impacts on amenity during the lifetime of the operation of the development.
- 11.7 In respect of green infrastructure and biodiversity, conditions are included that are specific to the provision of a buffer zone alongside Colne Brook, the carrying out of further ecological survey work and a proposed mitigation strategy for protected species. An ecological management plan is necessary to address specific requirements that are not identified in the planning obligation on landscape and green infrastructure works. The plan would include provisions for monitoring of wintering birds on the lake complex and measures to reduce noise from trains operating on the sidings near Old Slade Lake. Details of footways, cycleways and equestrian routes remain outstanding. Therefore a condition is necessary to ensure a good standard of construction, user-friendly crossings of the internal rail corridors and provision within a reasonable timescale.

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<sup>217</sup> CD9.3 consultation response dated 29 May 2015.

<sup>218</sup> PO/GLD Schedule 4 Part III page 28

<sup>219</sup> CD1.43 paragraph 6.18

Enhancing the amenity of the Colne Valley Trail, an objective of Policy CG1 of the LPfS is particularly relevant.

- 11.8 There was acceptance of conditions to (i) control the details and implementation of a sustainable drainage scheme, and (ii) require the completion of a scheme for flood prevention measures consistent with the amended flood risk assessment. The aims of the conditions are to enhance the natural and local environment and to prevent an increased risk of flooding on site and elsewhere.
- 11.9 Provision is made for a scheme of noise monitoring to ensure the development is operated within the stated noise levels in order to protect the amenities of the area. Details of proposed vehicle and cycle parking arrangements would have to be confirmed before commencement of development and the approved spaces maintained for vehicle parking during operation in order to minimise obstruction, danger and inconvenience to users of the highway.
- 11.10 Before commencement of development requirements would be imposed for an updated archaeological assessment, a written scheme of investigation and an appropriate programme of mitigation. The purpose of this condition is to protect the archaeological heritage of the Borough.
- 11.11 Conditions were agreed that would require before occupation of the development the submission and approval of details on refuse storage, collection and recycling, the operation of HGV reversing alarms and external lighting. The reasons are to ensure adequate on-site servicing, to protect amenity and to minimise light spill onto the watercourses and adjacent river corridor habitat respectively. In addition, conditions would require a verification report demonstrating completion of contaminated land remediation measures and a long term monitoring and maintenance plan in order to ensure the development adequately prevents the risk of contamination.
- 11.12 There was common ground between the Appellant and SBC that conditions are necessary to control the total floor space of each unit and to prevent the subdivision of the 3 distribution buildings into units of less than 50,000 m<sup>2</sup> of floor space in order to control intensification of the use of the site. In order to retain the distribution buildings for strategic rail freight interchange purposes it is necessary to prevent units being occupied by businesses mainly engaged in transporting, receiving or forwarding goods by air.
- 11.13 Initially it was proposed to remove permitted development rights to extend and alter the Class B8 buildings and to provide hard surfaces within the site. An additional condition was proposed to ensure the primary use of the distribution units would be retained and to limit the maximum ancillary office content<sup>220</sup>. SBC considered these conditions were justified by the sheer scale of the buildings. The Appellant took the view that these conditions were not necessary. In particular, attention was drawn to article 3(4) that confirms nothing in the GPDO permits development contrary to any condition imposed by any planning permission<sup>221</sup>.

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<sup>220</sup> GLD/IQ/4 conditions 41 and 43

<sup>221</sup> See also comments in GLD/IQ/27 on conditions 41 and 43.

- 11.14 To protect visual amenity a maximum height limit on the buildings and a restriction on the height of stored containers within the intermodal area are proposed. For a similar reason provision is made for replacement planting within the incidental landscaped areas. The prohibition of the use of amplified public address systems, sound systems or loudspeakers is necessary to prevent noise nuisance to adjoining occupiers.
- 11.15 There was no disagreement with the conditions requested by the Environment Agency (i) to control infiltration of surface water into the ground to protect ground water quality, (ii) to require discharge of potentially contaminated surface water from vehicle parking through oil/grit interceptors to prevent pollution of watercourses or soil, and (iii) to provide bunded areas for the handling of potential pollutants to protect waterbodies, soil and surrounding habitats.

### **Section 106 agreement**

- 11.16 The relevant statutory framework comprises the terms of section 106 of the 1990 Act and the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended (the CIL Regulations). The policy tests are set out in paragraph 204 of the Framework.
- 11.17 The section 106 agreement was completed after detailed negotiations between the Appellant and SBC. The parties have explained in a separate document the policy basis for each of the planning obligations and why they consider the obligations to be CIL and Framework compliant and lawful<sup>222</sup>.
- 11.18 As a preliminary matter, the section 106 agreement acknowledges that it will not be possible to develop the site in accordance with the indicative master plan unless the land owned by SBC, the Secretary of State for Transport and the unregistered land is made available for the development.
- 11.19 The s106 agreement places restrictions on the development, requires specified operations or activities to be carried out, requires the land to be used in the way specified and requires sums to be paid to the authority for the specified purposes. The obligations are detailed in Schedules 1 to 9.
- 11.20 Schedule 1 Rail Freight Transportation and Access. The obligations are to secure the provision of the physical infrastructure for the intermodal terminal and the rail connections to the two rail served warehouses. The measures and incentives to encourage the use of rail will be secured through the Rail Freight Development Plan and the establishment of a related fund of no less than five million pounds. The Schedule imposes restrictions on the occupation of the warehouses in the event the required level of rail services is not provided.
- 11.21 Schedule 2 Transport and Highway Works. Provision is made for the payment of £122,892 as a contribution towards the funding of real time information screens at 19 bus stops. The sum is derived from the capital and maintenance costs for the screens. Provision is also made for the payment of 5 annual instalments of £68,640 towards the cost of providing additional bus services. In order to mitigate the impact of additional traffic on the local highway network an obligation provides for a contribution of £29,000 towards the provision and

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<sup>222</sup> GEN/IQ/1

maintenance of urban traffic management control facilities at junctions on the local highway network.

- 11.22 The development is not to be occupied until all the highway works identified in Part IV of the Schedule have been carried out and are open to vehicular traffic. The works at junction 14 of the M25 are agreed as being required only in the event that the AM peak hour traffic flows exceed 100 vehicles on three occasions within a one month monitoring period. A Freight Development Plan, containing measures to regulate the number and movement of HGVs travelling to and from the site, has to be submitted to and approved in writing by SBC before the first occupation of any part of the development. The provisions of the Plan are to be complied with for the lifetime of the development.
- 11.23 Schedule 3 The Travel Plan. The Schedule sets out the arrangements for the production of a travel plan, based on the Framework Travel Plan annexed to the agreement. A range of measures are listed for inclusion in the plan, taking full account of the locational characteristics of the site, including public transport provision. Provision also is made for the appointment of a travel plan coordinator to be responsible for its production, monitoring and review. Separate travel plans are to be submitted to SBC by the occupiers of the intermodal terminal and units above a specified size.
- 11.24 Schedule 4 Pedestrian and cycle access and enhancement of public rights of way and green infrastructure areas. A sum of £1,040,000 is to be contributed towards the cost of implementing and maintaining the off-site pedestrian, cycle and open space proposals identified in Part 1 of the Schedule. The range of measures is considered necessary to enhance the connectivity, landscape, recreational and ecological resources of the Colne Valley Park in the vicinity of the appeal site. The measures have been the subject of detailed negotiations with interested parties. The amount of the contributions sought has been justified.
- 11.25 Provision is made for the enhancement of an area known as Colnbrook West, a lake to the south east of the site, to secure access and recreational improvements and a long term management plan.
- 11.26 An obligation requires the implementation of an approved scheme of landscape and green infrastructure works for the landscaped and other areas identified in the Landscape Masterplan and the Public Rights of Way and Other Footpaths plan. Long term management responsibilities and maintenance arrangements are to form part of the scheme.
- 11.27 Schedule 5 Employment. The obligations in this schedule are directed at the implementation of a local employment scheme, which will contain mechanisms for prioritising the use of local labour in the construction and operation of the development.
- 11.28 Schedule 6 Sustainable Development. The development is to be designed and constructed so as to be eligible to achieve as a minimum a classification of Very Good under the BREEAM<sup>223</sup> standard. The measures integrated into the development to achieve this rating are to be retained over its lifetime.

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<sup>223</sup> Building Research Establishment Environmental Assessment Methodology



- 11.29 Schedule 7 Air Quality. The Schedule sets out the phasing for the occupation of each commercial unit and requires that all occupier vehicles shall meet the Euro VI emission standard (Euro VI). Supplier vehicles are subject to separate requirements on Euro VI compliance. A contribution is to be made to SBC towards the capital and running costs of an air quality management station.
- 11.30 Schedule 8 Safeguarding of Western Rail Access to Heathrow. The obligations have the effect of ensuring that the detailed design of the appeal development is compatible with a default alignment for the Western Rail Link or, if available, the safeguarded alignment. In addition reasonable access is to be provided to the site to allow for the construction and future maintenance of the Western Rail Link.
- 11.31 Schedule 9 Additional Traffic Surveys. There is potential for other major schemes to be under construction and having an impact on the local highway network at a time when the SIFE development is due to commence on site. Therefore prior to the commencement of construction the Appellant is required to carry out additional traffic surveys at two locations on the A4 at Brands Hill. Appropriate mitigation measures shall be included within the CEMP in the event the required traffic survey and modelling work show the specified junctions operating at or over capacity during the peak construction time period. Possible mitigation measures include delaying the start of the development, phasing its construction, re-routing construction vehicles to or from the site or the use of alternative modes of transport such as rail.
- 11.32 SBC had two main reservations about the section 106 agreement, namely the omission from the document of obligations related to Heathrow expansion and the encouragement of the use of rail services<sup>224</sup>.
- 11.33 SBC wished a Schedule to be included to prevent the commencement of the construction of any part of the development unless and until the 3<sup>rd</sup> runway at Heathrow (as recommended by the Airports Commission Final Report July 2015) had been rejected unequivocally and ruled out by the Government. SBC was very anxious to prevent abortive work and the local community being subject to a lot of disruption during the construction of this large scale scheme and to prevent unnecessary environmental impact on local roads and air quality by the associated construction traffic. SBC suggested wording for an obligation and submitted that there would be nothing unlawful about a negative condition that depends on others' actions. SBC considered the obligation would be reasonable because all the benefits of the permission would not be removed, rather the permission could not be implemented unless certain pre-conditions were satisfied.
- 11.34 Reason for refusal number 5 was based on the absence of any guarantee that there will be a high level of rail use of the warehousing, a requirement of the CS. SBC considered that sanctions should be built into Schedule 1 in order that all warehouse occupiers have an interest and incentive to use rail with a view to ensuring the minimum train service continues to be delivered. The sanction proposed would require proportions of a warehouse unit to be cordoned off from use. The underlying concern was that without a sanction, the distribution units

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<sup>224</sup> SBC/IQ/14 sets out text which SBC wished to be included in the section 106 agreement. See also GLD/IQ/12 page 19

would be occupied by companies with no intention of using rail. As a result more HGVs would be generated, undermining the philosophy of the development. The lack of a sanction was regarded as a fundamental flaw, even though securing a minimum train service for 5 years was welcomed. SBC accepted that after 5 years no guarantees would be necessary because of the build up in trade for use of rail.

11.35 The Appellant explained that the form of sanction sought by the Council on rail use would introduce uncertainty and a disincentive for the potential occupiers and thereby affect funding, the ability to let the units and be commercially inoperable. No similar sanction was imposed on any other SRFI<sup>225</sup>. In addition:

- A link between occupation and receipt of a percentage of goods by rail freight would be unreasonable;
- A link between construction of buildings and a specific level of use is not necessary where other safeguards are in place and would be unreasonable in the context of commercial arrangements with occupiers;
- The absence of a specific undertaking to use rail is reasonable where the collective effect of other conditions requires significant investment in the rail infrastructure.

11.36 In summary, the Appellant was of the view that the section 106 agreement contains appropriate rail use obligations and the additional obligation sought by SBC would be unnecessary and unreasonable.

11.37 Mr Nye, speaking for the local community, considered funding should be forthcoming to enforce the weight restriction at the western end of Colnbrook High Street. The Appellant's response was that the problem exists. There would be no obvious desire line for traffic generated by the SIFE development to rat run along the High Street. Therefore it was unnecessary to make any financial contribution through a planning obligation<sup>226</sup>.

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<sup>225</sup> GLD/3/C Appendix 45

<sup>226</sup> See also submissions by the Appellant at paragraph 7.39 above.

## 12. INSPECTOR'S CONCLUSIONS

*References to earlier paragraphs of this report are in square brackets [].*

### Introduction

12.1 My conclusions take full account of the ES and all other environmental information, including the comments and representations made by statutory consultees and members of the public. The interactive effects on the environment have been considered as well as potential cumulative effects.

### *Main considerations*

12.2 These are:

- 1) The effects of the proposed development on:
  - a) The openness of the Green Belt and the purposes of including land within the Green Belt;
  - b) The Strategic Gap between the eastern edge of Slough and Greater London;
  - c) The role and resources of Colne Valley Park;
  - d) Landscape character;
  - e) The visual amenity of the site and the surrounding area;
  - f) Air quality in the Brands Hill AQMA;
  - g) The safety and capacity of the highway network for all users;
  - h) Other environmental matters, including flood risk and biodiversity;
  - i) The environment of local communities and cumulative impact.
- 2) The potential contribution of the proposed development towards:
  - a) A network of SRFIs across the region, including consideration of site selection criteria and the availability of alternative sites;
  - b) The transfer of freight from road to rail, a low carbon economy and addressing climate change;
  - c) Employment and economic growth;
  - d) The enhancement of landscape and green infrastructure;
  - e) Groundwater quality.
- 3) The use and adequacy of planning conditions and planning obligations to mitigate identified harm and to ensure the provision of essential elements of the development, necessary associated infrastructure and off-site works.
- 4) Whether the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other

considerations in order that the very special circumstances, necessary to justify the proposed development, exist.

- 5) Whether it is essential for the SIFE development to be located in the Strategic Gap near Colnbrook.

12.3 These considerations will inform conclusions on whether the proposed development complies with the development plan, the Framework, the NPS and whether the proposal is a sustainable form of development.

12.4 The various considerations are not necessarily discrete topic areas and there will be some overlap, so for example the effects on Colne Valley Park are linked with the impacts on landscape, visual amenity and ecology.

12.5 Previous appeal decisions and reports on SRFIs are taken into account and inform my conclusions where appropriate. With particular reference to the planning history of the site, SBC regarded the LIFE decision as highly material. However, a cautious approach is necessary because the national policy context and other factors have changed in the intervening period since these decisions. [4.1, 7.69, 8.71]

#### *SRFI development*

12.6 The proposed development is a SRFI by reason of being a large multi-purpose rail freight interchange and distribution centre linked into both the rail and trunk road system. The proposal, because of the size of the site, does not meet the requirements for a nationally significant infrastructure project. Nevertheless the NPS, as a definitive statement of Government policy on SRFIs, is a very significant material consideration in this case because it explains the aim of a SRFI, the drivers of need for SRFI development, the Government's expectations of how the need will be met and the essential requirements of SRFI development. The NPS does not radically change but builds on previous, now cancelled, interim policy published in 2011. [5.15, 6.5, 7.63, 8.33]

### **Effects of the Proposed Development**

#### ***Green Belt***

12.7 Most of Slough Borough is built-up. The development plan describes the significantly sized area of open Green Belt land around Colnbrook and Poyle as being fragmented and vulnerable. The Framework confirms that the Green Belt is of great importance and is to be protected. [5.3, 7.9, 8.9]

12.8 The proposed development, involving the construction of very large scale buildings, associated engineering works and provision of rail and highway infrastructure, would be inappropriate development in the Green Belt. This is one conclusion on which everyone is agreed. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. This national policy requirement of the Framework is restated in the CS when specifically referring to proposals for any further rail freight facilities at Colnbrook. The NPS does not change the policy test for SRFI applications in the Green Belt or the substantial weight to be attached to the harm to the Green Belt. In fact the NPS reminds promoters of the need to recognise the special protection given to Green Belt and that the Secretary of State would have to be convinced very special circumstances exist. This

emphasis leaves no doubt that the decision maker has to be certain that the proposed SRFI would be acceptable in the Green Belt. [3.3, 3.4, 3.7, 3.8, 6.1, 7.4, 8.75]

- 12.9 Openness and permanence are the essential characteristics of Green Belts. The appeal site is a large area of grazing land, enclosed by low, post and wire fencing and natural features. Even though the surrounding area has quite extensive areas of built development and is crossed by major highways, there is nothing of any note that detracts from the open quality of the site. Openness is its major asset. [2.1, 2.2, 2.9, 8.2, 8.3, 10.31]
- 12.10 The footprint of the proposal would maximise the use of the land through a concentration of built development and an efficient site layout of the three large distribution units, the intermodal area, the new rail infrastructure and the extensive areas for access, circulation and parking. Despite the compactness of form the developed areas would occupy the greater proportion of the 58.7 ha site. The left over spaces would be confined to the edges and would have no effect on the loss of openness resulting from the bulk and mass of the buildings and the associated intensively used storage and vehicle areas. The very large buildings and the height of the stacked containers in the intermodal area would accentuate the loss of openness. The purpose of the development, basically to provide warehousing, would not lessen the impact on openness. [7.7, 8.1, 8.4, 10.37]
- 12.11 In principle it is incorrect to reach a specific conclusion on openness by reference to visual impact. Therefore matters such as visibility, the effect of landscaping and perception have no relevance and do not reduce the significance of the effect of the SRFI on the openness of the site. The effects on visual amenity, character and appearance are separate considerations. [7.8, 8.5]
- 12.12 In conclusion, the proposed development would result in a severe loss of openness. The impact this would have on this area of the Metropolitan Green Belt is very much linked to the purposes of Green Belt.
- 12.13 The Framework states that Green Belt serves five purposes. The first purpose is to check the unrestricted sprawl of large built-up areas. Over the years Slough has expanded eastwards out from the town centre. Sutton Lane now marks the edge of the town in the vicinity of Colnbrook Bypass and the appeal site. The Biffa site will be restored to agricultural use. Further to the east along the southern side of the M4 corridor, land has generally remained free of development, apart from the sewage works. However, along the south side of the Bypass commercial premises have become established, separated by areas of open land. Further to the east the motorway interchange and the Lakeside Industrial Estate are urban intrusions. The Green Belt is fragmented and the pattern of development in the area has characteristics of unrestricted urban sprawl. The introduction of major development on the site, even if enclosed within well defined boundaries, would not assist in checking sprawl and hence would conflict with a purpose of the Green Belt. [7.9, 7.11, 8.6, 8.10, 10.17]
- 12.14 Green Belt assists in maintaining the distinct identity of a town and a well defined edge to the built development. The swathe of Green Belt separating Slough and Greater London is interrupted by several settlements. The gaps between them are of varying widths and the separation distances between

Brands Hill, Colnbrook and Poyle are very tenuous. North of Colnbrook Bypass the open lands are more extensive. Provision is made in the proposed scheme to contain the use within well defined boundaries. The development of SIFE would not of itself result in the merging of Slough and Greater London. Nevertheless the swathe of open land would be significantly eroded by the proposed SRFI, which within its context would be a massive development. It would perpetuate a gradual process of eating away at the Green Belt in this area that has been and continues to be subject to pressure for further development. Bearing in mind the importance of permanence in the Green Belt context, the proposal would not be compatible with the purpose of preventing neighbouring towns merging into one another. [2.1, 2.9, 7.12, 7.13, 8.7, 8.9, 10.18, 10.37, 10.57]

- 12.15 The site is an area of countryside that was restored to support agricultural use after the former landfill activities. Typical countryside features are present, although there is no claim that the land is especially attractive. In any event the landscape condition and appearance are not relevant to considering whether there is conflict with a purpose of Green Belt designation. There is no doubt that the proposed development would encroach into the countryside. This conflict is not overcome by the proposed creation of new habitats and other aspects of mitigation in existing countryside areas. The value of their contribution is more suitably assessed as separate considerations. [2.2, 7.14, 8.8, 10.19, 10.38, 10.48]
- 12.16 The evidence of Colnbrook with Poyle Parish Council vividly described the historic character and development of the village of Colnbrook and its strong relationship with the countryside setting. However, I am not persuaded that the Green Belt purpose of preserving the setting and special character of historic towns applies to Colnbrook by reason of the modest scale of the village, the transformation brought by modern development and the Colnbrook Bypass. I will return to the points made by the Parish Council when considering the effects on character and appearance and visual amenity. [6.13, 7.15, 8.10, 10.20]
- 12.17 As to the fifth purpose, the contribution of a SRFI to urban regeneration is likely to be very limited because of the nature, scale and specific requirements of such a type of development. No alternative site for a similar SRFI has been identified in urban area or on brownfield land. No conflict arises. [7.15, 8.10, 10.22, 10.47]
- 12.18 In summary, the proposed development conflicts with three of the five purposes of the Green Belt. The conflicts have substantial weight. [7.16, 8.10, 10.8]
- 12.19 The inevitability of SRFI development having to be located in the Green Belt is a common thread through the Appellant's case on Green Belt. The NPS and previous analyses suggest that this may well be an optimum solution in relation to existing patterns of distribution activity. In my view that does not reduce the actual harm that would occur from this particular scheme. I will return to the use of Green Belt land under 'other considerations'. [6.10, 7.3-7.5, 7.10, 10.47]

### ***Strategic Gap***

- 12.20 The spatial strategy for Slough is to direct development into the most accessible locations in the Borough, especially the town centre. As an integral

part of this strategy use of Green Belt land outside the built up area has to be justified by very special circumstances. The remaining open land in Colnbrook and Poyle, east of Langley and Brands Hill, is regarded as being particularly important because it acts as a Strategic Gap between the eastern edge of Slough and Greater London. This area is also identified by the CS as being a fragmented and vulnerable part of the Green Belt. This land is subject to additional restraint – development will only be permitted if it is essential to be in that location. [5.2, 5.3, 8.11, 8.12, 9.4]

- 12.21 The spatial strategy is within the development plan for the area. The reasons for the additional restraint applied to the Strategic Gap by Core Policy 2 are clearly explained and justified. The policy was found to be sound through the public examination of the CS. The policy was subject to scrutiny by the courts as part of the litigation on the Radlett appeal decisions. The 2011 judgement found that the Strategic Gap policy had been formulated because of the special sensitivity of the tightly defined area to which it applied and that a very high bar was set by the policy test. The judge held that the Core Strategy sets an additional policy restraint beyond that which follows from the site's location in the Green Belt. Having carefully considered the evidence in this appeal, I find that 'fragmented and vulnerable' is a good description of the characteristics of the Green Belt area east of Slough. [7.9, 7.13, 7.18, 8.12, 8.13, 9.3]
- 12.22 Core Policy 2 pre-dated the publication of the Framework. Applying national planning policy, the weight to be attached to the policy depends on its degree of consistency with the Framework. The Introduction to the document states that the Government's requirements for the planning system are set out only to the extent that it is relevant, proportionate and necessary to do so. It provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities. Therefore whilst strategic gaps are not a tool advocated by the Framework, there is scope for policies to take account of and respond to the different roles and character of different areas. The community and their representatives place a lot of value on the Strategic Gap concept and designation and its protection is very important to them. [7.17, 7.18, 8.16, 9.5, 10.6, 10.17, 10.56, 10.57, 10.58]
- 12.23 Therefore the fact that the Framework does not explicitly provide for a spatial separation policy in addition to Green Belt designation does not preclude SBC including a Strategic Gap policy in its Core Strategy. The policy supports the Borough's spatial strategy, which is firmly based on the principles of sustainable development. At the heart of the Framework is a presumption in favour of sustainable development. The very high bar set by the policy is merited because of the need for distinguishing this particularly sensitive area of the Green Belt. This sensitivity stems from the combination of a number of factors that are not present to a similar degree in other parts of the Green Belt, such as proximity to Heathrow and the motorway network, the settlement pattern. The adopted spatial strategy relies on very strict control on development on land outside the town. The Strategic Gap is an essential element of Slough's Core Strategy. The absence of a similar designation and policy from the plans of neighbouring authorities is of little significance. [7.18, 8.11, 8.12]
- 12.24 In the 2014 Radlett decision the Secretary of State attributed substantial weight to the Strategic Gap designation, having had regard to the 2011

judgement. Helioslough has confirmed that this conclusion was reached in the knowledge of a consistency argument similar to that being pursued by the Appellant in this appeal. Over the last year or so no changes have occurred either to policy or to the local circumstances in Slough to indicate or warrant a different approach now. [8.14, 9.5]

12.25 I conclude that the Strategic Gap policy imposes an additional policy restraint on proposals for development located in this very sensitive area. The policy has full weight as a key component of the development plan for Slough. The 'it is essential to be in that location' test is distinct from demonstrating 'very special circumstances'.

12.26 The application of the policy raises two matters (i) whether 'essential' applies to the development and/or the location, and (ii) should Slough or a wider area be considered. The policy test, on a straightforward reading, means that a development must have to be located in the Strategic Gap as opposed to anywhere else. However, the supporting text to the policy states that the additional restraint "will mean that only essential development that cannot take place elsewhere will be permitted". This implies that the development itself, as well as a location in the Strategic Gap, must be essential. SBC and the Appellant took the latter approach and considered the two matters. [7.20, 8.77]

12.27 On the second point, account must be taken of more than local development needs in order for the test to have the necessary force and be a high bar. In other words the relevant area is not restricted to Slough. This approach is consistent with the CS requirement that any further rail freight facilities at Colnbrook would have to demonstrate a national or regional need for such a development. [7.20, 8.15, 8.76]

12.28 The proposed SRFI would be located in the heart of the Strategic Gap. The development would be a dominant group of large scale buildings and infrastructure, having a commercial distribution/freight transfer use that would generate a large volume of traffic and activity. The scheme would be perceived and have a very strong influence on the area between Brands Hill, on the edge of Slough and the Lakeside Industrial Estate/M25 motorway. Even with a high quality landscape scheme, its presence would cause irreparable harm to the Strategic Gap. Policy CG9 of the LPfS indicates the development, which would threaten the role of open land within the strategic Green Belt gap, should not be permitted. A conclusion on whether or not there is compliance with the test in Core Policy 2 will be informed by the merits of the arguments advanced on need and alternative sites, which are considered later in this report. [7.12, 7.19, 8.17-8.19]

### ***Colne Valley Park***

12.29 The Colne Valley Park is of regional importance and diverse character, extending over different types of natural and built environments. The Park is easily accessible and offers opportunities for a wide range of recreational pursuits, encouraging learning and healthy activities. The six objectives of the CIC are directed at ensuring the attractiveness of the Park, in all respects, is safeguarded and enhanced. [7.23, 8.20, 10.2-10.4]

12.30 The Park, in terms of its extent, has a linear form. The appeal site is located at the narrowest section that links the southern area of the Park, between



Slough and Staines, to the more extensive central and northern areas through South Bucks to Rickmansworth. Therefore the development site is at a fairly pivotal location and understandably there are concerns about the effects of the proposal on severance and enjoyment of the Park. In Slough Borough the Park coincides with the designated Strategic Gap. Accordingly, the CS in Core Policy 2 applies the same 'essential to be that location' test to development proposals in the open areas of the Park. [7.22, 8.21, 10.5]

12.31 This part of the Park is also within a short distance of residential areas and is much valued by the local community as an accessible recreational resource close to home. The Colne Valley Trail runs along the east, south eastern boundary to the site and a public right of way crosses the site. They provide good, generally well maintained links to the network of public rights of way in the wider area, although there is scope for improvements. The variety of habitats along the trail and paths also enhances the opportunities for nature study and other leisure pursuits. In addition, the open grazing land has an amenity value and is a countryside setting for the nearby recreation facilities including the educational centre at Grundon, the adjacent lakes that are used for fishing and a clay pigeon shooting range on land east of Old Wood. [7.25, 8.22, 10.8, 10.19, 10.38, 10.48]

12.32 The proposed SRFI would bring a major change to the character of the site and its surroundings. The scheme would have significant implications for enjoyment of the recreational resources and 5 of the 6 objectives for the Park, those concerned with landscape, amenity, recreation, community participation and biodiversity. Objective 5 in respect of the rural economy has less relevance. [10.6-10.12]

12.33 The appeal site is private land and its open, countryside character is probably its greatest attribute. This open quality, where there is no business activity or traffic, makes a very positive contribution in an area of the Park that has quite an industrial/urban context. The proposal would replace this asset with a development that would have an inhospitable and intimidating presence by reason of its large scale, the nature of the proposed land use and the inevitable security. The introduction of a SRFI into the area of open land south of the M4 would fragment the linear continuity of the tract of green, open space. The effect would be to urbanise the Park between Old Slade Lane bridge and the A4 Colnbrook Bypass, contrary to a criterion of Policy CG1 of the LPfS. The physical form and use of the SRFI would dominate the remaining open landscaped setting, even though the created wetlands and maturing meadow grasslands and woodland planting would enhance the immediate environs over time. [7.23, 7.24, 8.21, 10.6]

12.34 The proposed comprehensive package of on and off site landscape and environmental works would do much to avoid severance by reducing the impact on accessibility and movement through the Park. The only 'loss' would be a route across the site but the intention is to divert the footpath round the edge of the development and to create new publically accessible routes around the site. People would still be able to take the dog for a walk, go on nature trails, get to the fishing lakes and so on. There would be the prospect of improvements to the surface conditions and waymarking. Better linkages to the wider public rights of way network are proposed, such as a new crossing point on the A4 Colnbrook Bypass and upgrading of the route over the M4 motorway.

A lot of thought has been given to the details of the landscaping, with the aim of creating strongly landscaped green corridors to ensure users of the public rights of way would be shielded from the operations, activity and low level built environment of the SRFI. [3.10, 6.2, 6.3, 7.23 - 7.26, 7.28, 10.10]

12.35 In response to Policy CG1 of the LPfS, finance would be made available through the section 106 agreement to fund a range of projects and proposals that would promote the objectives for the Colne Valley Park. The one proposal under the Appellant's control is a gift of land to the east of Thorney Park together with a management endowment. Otherwise, the onus would be on SBC, the CIC and other parties to progress and implement the proposals. CIC (and its predecessor) has a good track in delivery and achievement on the ground and the package of off-site measures has been drawn up in consultation with stakeholders. Nevertheless, funding would not necessarily be forthcoming until the development is available for first occupation, building in delay at the outset. Various improvements are subject to 'investigation of opportunity'. Consequently there is uncertainty over how many of the projects and opportunities would be realised and the timescale for doing so. [5.10, 6.2, 7.24, 11.24]

12.36 Despite the proposals to make the routes attractive and safe there would be no disguising the fact that they would pass alongside a major warehousing and freight interchange. Views across open pasture land would be lost, to be replaced by enclosure and containment. The relief and contrast with the strong urban influences also would be lost. The experience of the scheme would be limited to the immediate environs but may not necessarily be brief. The evidence indicates that much of the recreational use is by residents, who see the land very much as a resource close to home where a lot of time is spent. Improvements to green spaces and infrastructure further away may not make a difference to every day experience and use. However, the proposed enhancements in the wider area may result in better informal leisure areas for those who make little use of the Park near to Colnbrook. [7.27, 8.23, 10.6, 10.8, 10.10, 10.32, 10.38, 10.48]

12.37 The likely impact of the development proposal on biodiversity was described in detail in the ES, based on information and data gathered through updated surveys and consultation with relevant organisations. The permanent loss of the area of poor semi-improved grassland covering most of the site is acknowledged. The proposed mitigation, including the creation of smaller areas of semi rich grassland and long term management, would result in negligible residual effects. The resultant residual minor adverse effects on bird species are placed within the overall context of biodiversity enhancement through the proposals for new woodland and hedgerow planting, habitat creation and improvement and long term management. The loss of 100% of the bank of Old Slade Lake would be temporary, with details of the proposed new lake edge and profiling being secured through the section 106 agreement. Statutory consultees raised no objections on grounds of biodiversity loss. The proposals for Colnbrook West would be in accordance with the SSA. [5.8, 6.4, 7.28, 8.25-8.27, 10.9, 11.25]

### *Conclusions*

12.38 The LGIS, if translated into practice with attention to detail, would deliver a high quality landscape scheme and improvements to the public rights of way

network. Physical movement through the Park in this area probably would be improved and proposals comply with Policy T7 of the LPfS. Taking a wider perspective, the objectives for the Park would be supported by a proportionate financial contribution towards the improvement of access by pedestrians, cyclists and equestrians, habitat enhancement and other initiatives. This element of the proposal goes as far as it reasonably can when account is taken of land ownership, management responsibilities and other similar factors. Habitat improvement, creation and management would conserve the nature conservation resources of the Park in compliance with criterion (d) of Policy CG1. [5.10, 7.29]

12.39 On the negative side there would be localised harm to the landscape and amenity of Colne Valley Park, principally through the adverse change in the character and use of the site. The loss of the intangible countryside feel and associated amenity could not be adequately replaced. The development would detract from users' enjoyment of the rights of way (LPfS Policy CG2) and there is uncertainty over delivery and timescale of potential off-site enhancements. The adverse effects are likely to be most keenly felt by the local community. [5.10, 8.24]

12.40 Overall the scheme would not be consistent with the purpose of the Colne Valley Park. As a result of the harm to the scenic and amenity value the proposal is not supported by Policy CG1 of the LPfS. This conclusion adds moderate weight against the proposal. Compliance with Core Policy 2 will be addressed later.

### ***Landscape character and visual effect***

12.41 Core Policy 9 requires development to respect the character and distinctiveness of existing landscapes. The broad landscape context of the site is of a diverse nature, strongly influenced by built development and transport corridors and infrastructure. A landscape of weak character and declining condition is an apt description. The local landscape has similar characteristics and provides an urban fringe context of weak character. Its sensitivity has been assessed as low<sup>227</sup>. The site is predominantly of open grassland and landscape features are confined to its edges and adjoining lands. Residents, with greater local knowledge and awareness of the history of the area, place emphasis on its semi-rural character, farming activity and parkland and the belt of villages. [2.1-2.3, 2.9, 5.5, 7.30, 10.15, 10.19, 10.37, 10.47]

12.42 The master plan design for the site layout and the LGIS aim to assimilate the proposed large scale development into the landscape. Inevitably the scheme would bring about a substantial change to the character of the site itself. However, a strong and robust landscape structure would be established. The mature landscape features around the perimeter would be largely retained and strengthened through new planting, sympathetic mounding, enhancement of habitats and long term management. Landscaping has been an integral part of the design, as required by Core Policy 8 (criterion 2c) and the outline scheme has had regard to the matters identified by Policy EN3 of the LPfS. [3.10, 5.11, 7.31]

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<sup>227</sup> CD1.43 paragraph 11.113

- 12.43 In relation to the broader, county level context the development would have at most a minor adverse effect on landscape character. In the local context, where the surroundings are generally medium to large scale and largely disrupted, the residual operation effect upon local character would be minor/moderate adverse, as set out in the ES. [7.31]
- 12.44 Even though the site covers some 58.7 ha, it is easily visible only from its immediate surroundings due to the visual containment provided by the topography, industrial scale buildings, the transport infrastructure and mature woodland. The proposed SRFI would effectively fill the space. The group of distribution units would be very big in overall mass but the height of the building profile has been kept relatively low in comparison to the visually dominant Grondon incinerator building and would be similar to the height of the mature tree canopies. [2.9, 7.8, 7.27, 7.32]
- 12.45 As noted by the ES, subsequent attention to the detailed design of the development in respect of roof profiles, building elevations and the intermodal facility would be important in influencing the ultimate and detailed nature of the visual effects for receptors. Equally, or probably even more important, would be the quality and success of the landscape scheme, as part of the LGIS, in softening the appearance of the built form, providing low level screening and in strengthening the surrounding green spaces and woodland/hedgerow planting. With good maintenance and management the beneficial effects would increase over time. [6.12]
- 12.46 The most significant visual impact would be for users of the Colne Valley Trail and the public rights of way around the site. In addition, in close distance views from the A4 Colnbrook Bypass area, the main access points and vehicular activity would signal the dominant physical presence of the interchange. The highest element on site, the gantry cranes, would be a very prominent element. The external storage of containers would be particularly intrusive for a number of years, until such time as the perimeter planting matured. Further away from the bridge at Old Slade Lane users of the public right of way would be very aware of the filling in of the space and extension of major development along the M4 corridor. The path cut by the railway would be a noticeable encroachment of supporting infrastructure into the woodland and lakeside settings. The visual impact for receptors at other locations such as Sutton Lane, south of Colnbrook and Harmondsworth Moor would be minimal. Views from the M4 generally would be fleeting at most. Occupiers of residential properties, including those on the southern edge of Richings Park, would not experience harm to their visual amenity. [7.27, 7.32, 10.20, 10.21, 10.38, 10.48]
- 12.47 Therefore the harmful visual impact would be restricted primarily to the immediate surroundings. The users of public rights of way would experience the greatest loss of amenity of all potential receptors, which has been highlighted above in relation to the enjoyment of Colne Valley Park.

### *Overall Conclusions*

- 12.48 The SRFI would be a large scale commercial operation, generating constant activity. The landscape strategy is derived from thorough evaluation and is suitably directed at assimilation, enhancement of landscape assets and realising opportunities. In the broad landscape context, the impact would be negligible. At local level the harm would be more significant. Overall the harm to

landscape character has a small amount of weight. The effects on visual amenity would be most acutely experienced by those living in the area as they travel to and from home or when viewing the landscape in leisure time. Therefore the visual harm has a greater amount of weight. There is a degree of conflict with Core Policy 9.

### ***Highways and Traffic***

- 12.49 The site is located with direct access onto a principal road the A4 Colnbrook Bypass and within a short distance of the motorway network. However, the surrounding area suffers from traffic congestion and the high volumes of HGV traffic reduce the environmental quality in residential areas and local centres. The proposed SRFI would generate a lot of traffic spread over a 24 hour period, nearly half of the daily trip generation consisting of HGVs. Therefore it is critical to establish whether traffic and environmental conditions would deteriorate as a result of SIFE. [2.1, 3.9, 6.28, 7.37, 7.44, 10.27, 10.42, 10.50, 10.53, 10.61, 10.62]
- 12.50 The Transport Assessment was prepared in accordance with national guidance and the surveys, data base and methodologies were acceptable to the relevant highway authorities. A package of highway and transport mitigation measures is proposed with the aim of accommodating the traffic associated with SIFE on the highway network on a 'no detriment' basis. [6.27, 6.29-6.35, 7.35, 11.21-11.23]
- 12.51 Consistent with policy in the Framework and Core Policy 7 there is a strong emphasis on promoting sustainable travel to and from the site by employees and business visitors. A key tool to facilitate this will be a Travel Plan. The Framework Travel Plan annexed to the section 106 agreement provides an excellent basis for producing a Travel Plan to deliver on objectives. This measure would be supported by appropriate proposals directed at securing additional bus services and improvements to real time information systems, promoting an objective of LPfS Policy T9. Highways England requested the Travel Plan to be implemented within 3 months of the first phase of the site being occupied, whereas the section 106 agreement requires a Travel Plan to be submitted for SBC's approval within this timescale. This delay is disappointing, although the timescales for the appointment of a Travel Plan Co-ordinator and the agreed monitoring arrangements indicate that the onus would be on parties to ensure a Travel Plan is in place within a reasonable timescale after first occupation. [6.29, 11.23]
- 12.52 The trip generations and distributions were agreed with SBC and Highways England. There is no contrary technical evidence to cast doubt on the results. A reasonable expectation is that HGVs generally will travel to the motorway network using the shortest and/or most direct route. There also are physical restrictions that would prevent HGVs using routes through the area of Richings Park and Iver or travelling along Colnbrook High Street. In addition, the section 106 agreement requires a Freight Management Plan to be in place prior to the first occupation of any part of the development. Details would have to be approved by SBC, including any sanctions for non-compliance. Nevertheless, at this stage there is sufficient information to support a conclusion that a Freight Management Plan would be an appropriate way of monitoring and enforcing a route strategy over the long term. There probably would be an occasional emergency when alternative routes may have to be used, but it is usual to make allowance for situations beyond the control of a management company

and occupiers. The draft Freight Management Plan outlines possible remedial actions in the event of congestion or closure of motorways<sup>228</sup>. [6.27, 6.28, 7.37-7.43, 11.22]

12.53 The vast majority of light vehicle trips are likely to be employees travelling to and from work. Shift working is an important factor to take into account and there is little evidence to indicate the problems identified by residents would be likely to occur. [7.42]

12.54 In conclusion, the environmental quality in residential areas and local centres is unlikely to be significantly affected by traffic generated by SIFE.

12.55 A conclusion on the impact of the scheme on the capacity of the highway network must take full account of the proposed highway works on the A4 to provide access to the site and the proposed junction improvements on the A4, the M4 and at the A3044 Stanwell Moor Roundabout. The section 106 agreement provides assurance that the development would not be occupied until these works have been carried out and are open to vehicular traffic. An additional highway scheme at junction 14 on the M25 would be triggered in the event traffic entering the site in the AM peak hour exceeded the specified limits. [6.34, 6.35, 11.22]

12.56 The identification of the junctions, the traffic modelling, sensitivity testing and the design principles of the works have been agreed with the relevant highway authorities. Design details and final safety audits remain outstanding but would be suitably resolved through the necessary highway agreements. The works would secure benefits not only for road vehicles but also pedestrians and cyclists, consistent with LPfS Policy T8. The local community is sceptical and has serious concerns about the ability of the roads to cope. Upgrading the A4 to a dual carriageway, funding towards a relief road in South Bucks and number plate monitoring on Colnbrook High Street have been requested. However, there is no specific evidence or technical basis to question the acceptability of the package of proposed highway improvements and the relevant highway authorities have not required such improvements in connection with the scheme. The rebuttal by the Appellant's highway consultant adequately addresses the numerous more detailed matters raised by the London Borough of Hillingdon. [6.34, 6.36, 6.38, 7.34, 7.44, 7.45, 7.50-7.56, 10.35, 10.45, 10.50, 10.55, 10.60, 10.65, 11.37]

12.57 In conclusion, it has been satisfactorily demonstrated that improvements can be undertaken within the transport network that would effectively limit the significant impacts of the development. Safe and suitable access to the site is able to be achieved for all people. The necessary transportation infrastructure would be delivered, as required by Core Policy 9.

### ***Air Quality***

12.58 Tackling air pollution is a priority for the Government in order that the NO<sub>2</sub> limit values set out in European Directive 2008/50/EC are met in the shortest possible time. The site is in an area that has poor air quality. In certain places, including Brands Hill, air quality is of sufficient concern to justify the declaration

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<sup>228</sup> CD1.42 paragraphs 7.7-7.13

of AQMAs. Vehicle emissions are the dominant source of air pollutants in the vicinity of the site. The potential effects on health are a major worry for the local community. The proposed SRFI would generate very significant amounts of traffic daily throughout a 24 hour period, almost half of which would be HGV movements. The greater proportion of daily traffic flows is forecast to travel along the A4 Colnbrook Bypass to/from the west through Brands Hill. On the face of it, the introduction of a SRFI would be inconsistent with local air quality conditions. In such circumstances, the Core Strategy, the Framework and the NPS indicate the importance of assessing the effect of the development against air quality limit values and objectives. [2.7, 6.28, 7.44, 8.29, 10.27-10.29 10.39, 10.57, 10.60]

- 12.59 The first air quality assessment was completely reviewed, using accepted methodologies and based on national guidance. A firm commitment to mitigation is essential to limit the adverse effects of the development during operation. The proposed mitigation measures are suitably directed at reducing the traffic flows from the scheme in 2018 and 2019 and ensuring, as far as is reasonably possible, that HGVs serving the development meet the latest Euro VI emission controls. Suppliers' vehicles would not be under the control of the site operator and therefore cannot be required to be compliant with Euro VI standards. [6.43-6.45, 10.35, 10.40, 10.43, 10.44, 11.29]
- 12.60 By 2021 NO<sub>2</sub> concentrations are predicted to be above 35ug/m<sup>3</sup> in the Brands Hill area, which would not comply with the target set in relation to Core Policy 7 of the CS.<sup>229</sup> However, this would be the position even without the development. Significantly, the overall results show that the magnitude of impact is likely to be slight adverse at worst. Consequently the development with mitigation would not give rise to unacceptable levels of or risk from air pollution. The scheme would not prevent sustained compliance with EU limit values or national objectives for pollutants. There is compliance with Core Policy 8 of the CS and the test identified in the Planning Practice Guidance is met. [6.46, 6.47]
- 12.61 Dust generating activities on site during the construction phase would necessitate the inclusion of a range mitigation measures in the CEMP. Subject to that caveat, there would a low risk to human health or for significant effects due to dust soiling. [6.49, 10.43]
- 12.62 Turning to possible cumulative effects, SBC raised no objections and the concerns of residents were expressed in general terms. Any potential significant impacts from the development itself would be minimised by the proposed mitigation measures during construction through the CEMP and during operation by phasing and control of HGVs. On this basis, the proposal would not contribute significantly to cumulative adverse effects on air quality in the area.
- 12.63 To consider the scheme in combination with other projects, I have relied on the information and assessment in the ES. The two projects highlighted were WRATH and the M4 Smart Motorway scheme<sup>230</sup>. In the event these schemes go ahead there is no evidence to demonstrate that adverse cumulative effects

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<sup>229</sup> CD1.43 paragraphs 8.108, 8.110

<sup>230</sup> CD1.43 paragraphs 8.123 to 8.127

would occur during the construction phase. The traffic generated by completed developments in the study area was included in the traffic scenarios assessed in the air quality model. The WRATH scheme is not forecast to generate significant traffic flows during operation. Regarding the M4, no significant changes in pollutant concentrations at sensitive receptors are predicted between junctions 5 and 4a. Therefore the air quality modelling results for the SIFE scheme would have accounted for any cumulative effects. [6.39, 10.39]

12.64 In conclusion, the proposed development with appropriate mitigation would comply with Core Policy 8. The slight adverse effect on air quality has limited weight.

### ***Biodiversity***

12.65 Certain conclusions on this issue have been made in the context of an objective for Colne Valley Park. However, additional attention has to be directed specifically to the statutory obligations that apply as a result of the location of the site near to an internationally designated nature conservation site which has the highest level of protection. The potential effects on the special interest features of the SSSIs and on protected species also require assessment. The ES and associated technical appendices are the primary sources of information and the consultation responses from Natural England have substantial weight. I have referred to Circular 06/2005<sup>231</sup>, which provides guidance on the law relating to planning and nature conservation. [2.6]

12.66 Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) restricts the grant of planning permission for development which is likely to affect a European site (which includes a SPA) and which is not directly connected with or necessary to the management of the site, by requiring that an appropriate assessment is first carried out of the implications of the development for the designated site's conservation objectives. As a matter of Government policy the same procedure and protection are applied to Ramsar sites.

12.67 The proposed SRFI clearly is not directly connected with or necessary to the nature conservation management of the South West London Water Bodies SPA/ Ramsar site. The next matter to be determined is whether the proposal is likely to have a significant effect on the internationally important interest features of the SPA, alone or in combination with other plans or projects. Proposed avoidance or mitigation measures may be taken into account when considering this step. The conservation objective for the European interest on each SSSI component of the South West London Water Bodies SPA/ Ramsar site is to maintain in favourable conditions the habitats for populations of gadwall and shoveler, with particular reference to open water and surrounding habitats.

12.68 The proposed development, including the associated infrastructure would not have any direct physical effects on the SPA/Ramsar site. By reason of its commercial nature it would not lead to an increase in post development visitor pressure on the SPA/Ramsar site. The separation distance of the sites would

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<sup>231</sup> Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System



ensure no direct impact on the protected site from increased noise or visual disturbance.

12.69 Turning to potential indirect effects, the development would result in the loss of existing habitats on the appeal site but surveys have shown that the grassland is not used by shoveler or gadwall for foraging. Consequently the loss would not be likely to cause a significant effect on SPA species.

12.70 Old Slade Lake and adjacent waterbodies are used by wintering gadwall and shoveler, although surveys have shown the numbers on Old Slade Lake to be very small. The provision of the rail link to the Colnbrook Branch Line would require the removal and subsequent replacement of the north bank of Old Slade Lake. I accept the view of Natural England that this work would be unlikely to lead to a significant effect on SPA species provided that appropriate mitigation in the form of an enhancement plan for the reconstructed north bank of the lake is secured. [6.21]

12.71 During construction there would be the potential for noise and visual disturbance, more particularly affecting birds using Old Slade Lake. The proposed mitigation is to ensure construction works that could cause such disturbance are scheduled to avoid the months of September to March. During operation of the development, noise from the movement of trains using the railway sidings, including brake squeal, was identified to have potential to cause disturbance. This may be overcome by limiting speed and by fitting flange lubricators to the lines. All these measures are able to be reasonably secured by planning conditions. [11.7]

12.72 The importance of protecting the water environment from pollution was highlighted by Natural England. In this respect an approved CEMP would be critical in identifying best practice working methods. The controls identified by the ES and the Environment Agency would be reasonable and deliverable and be in accordance with Core Policy 9 and LPfS Policy EN24. [11.15]

12.73 Subject to the necessary avoidance measures being fully secured and implemented through compliance with appropriate planning conditions, the evidence demonstrates that the proposed development would not be likely to have a significant effect on the SPA/Ramsar site either alone or in combination with other plans or projects. This also was the conclusion reached by Natural England. It is open to the Secretary of State to conclude that an appropriate assessment is not required.

12.74 Similar considerations apply to the potential effects of the proposed development on the special interest features of the SSSIs. No adverse effect is likely.

12.75 Survey work identified protected species associated with habitats present within or adjacent to the Assessment Site boundary. These included grass snake, slow worm, various species of bats and a number of bird species of principal importance. The consensus of opinion, including that expressed by Natural England, is that protected species are unlikely to be affected by the proposed development. This conclusion is on the understanding that planning condition(s) secure an up to date ecological survey and mitigation measures, including reptile translocation and appropriate timing of vegetation removal. [6.4]

12.76 The proposal offers opportunities to conserve and enhance biodiversity, primarily through the LGIS. With reference to the principles in paragraph 118 of the Framework and the LGIS as a whole, the effect on biodiversity is acceptable on the basis that the proposed mitigation is secured. The development may be permitted under Core Policy 9.

### ***Flood risk and water resources***

12.77 The proposed development, apart from the proposed railway embankment, would be sited within flood zone 1 and therefore out of the extreme floodplain events. Significantly, though, the coverage of the site by buildings and impermeable surfaced areas would reduce infiltration and increase surface water run-off. An increase in flows in watercourses potentially could increase flood risk downstream of the development and a reduction in water quality. The railway embankment would be located partially in flood zone 3 and the volume of the floodplain at the 100 year flooding event would be reduced. Displaced flood waters could increase flood risk elsewhere. Mitigation is essential. [2.8, 3.12, 3.13, 10.33]

12.78 The scope, results and proposals in the FRA have been agreed with SBC. The proposal provides adequately for floodplain compensation. The SuDS and associated drainage infrastructure would restrict flows from the development to the nearby watercourses to existing greenfield runoff rates. Attenuation would also allow for the potential impacts of climate change. A priority is to construct this infrastructure within the early phases of development. [3.12, 3.13, 6.15]

12.79 The proposed mitigation has been agreed with the EA, subject to the submission of a satisfactory detailed design. Therefore at this stage it is reasonable to conclude that the proposed discharge rates to each watercourse would be no greater than existing flows and there would be no increase in flood risk to the wider catchment area. The necessary mitigation and the timing of its provision would be appropriately secured through planning conditions. [11.1]

12.80 The introduction of a surface water drainage strategy, including the use of SuDS and other features to remove contaminants from surface water runoff before disposal to watercourses, is likely to have a minor beneficial effect on water quality. [6.14]

12.81 The land, because of past landfill activities, is likely to be contaminated. Site investigations showed contaminant within the shallow leachate/groundwater across the Assessment Site but provided no evidence of effects to surface water quality. The ES considered the potential effects of construction and operation including piling. Runoff and the migration of contaminated leachate and off-site migration of contaminated groundwater were identified as potential effects. Mitigation would be achieved by the use of pathway breaks, such as the use of hardstanding and selection of appropriate piling methods. The resultant residual effects were described as minor adverse/negligible. No significant benefit would result. [7.113, 7.114]

12.82 In summary, the FRA demonstrates that the development, incorporating the proposed mitigation measures, would not increase flood risk. Surface water from the development site would be managed in a sustainable manner to reduce the risk of flooding and improve water quality. There is compliance with Core Policy 8 criterion 4.

### ***Local communities and cumulative impact***

- 12.83 The Framework explains that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment as well as in people's quality of life. The representations of the Parish Councils, residents' associations, community groups and individuals indicate that one of the main concerns is the amount of development being proposed in the area and if SIFE is approved the additional strain it would place on the fabric and environment of the locality, their health and the overall quality of people's lives.
- 12.84 The cumulative impact of the proposed development with other schemes in the area was assessed using the best available information for the purposes of the 2015 ES Addendum. In addition, the potential highways impact of the proposed relocation of the Heathrow Express Depot to Langley was considered. It is common ground between the Appellant and SBC that WRATH and the relocation of the Depot to Langley are unlikely to have a significant effect during construction and operation. There is no evidence to support a different conclusion. The probability is that the traffic forecasts for the SIFE development are robust enough to allow for the impact of the M4 Smart Motorway project. [4.6, 6.40-6.41, 7.46-7.48, 10.16]
- 12.85 There is a degree of uncertainty, however and a safeguard has been introduced into the section 106 agreement. There is an acknowledgment that base traffic flows on the A4 at Brands Hill may increase over and above the predicted growth due to the implementation of other schemes. If junctions are shown to be operating at or over capacity through additional traffic surveys and modelling work, provision is made for mitigation measures to be included in the CEMP. This planning obligation is a necessary and reasonable response. [6.42, 10.52, 11.31]
- 12.86 In relation to air quality, mitigation measures during construction through a CEMP and mitigation during operation by phasing and control of HGV emissions would minimise or eliminate any potential significant impacts. Therefore SIFE would not contribute significantly to cumulative effects. [6.45]
- 12.87 The Heathrow 3<sup>rd</sup> runway option was not included in the cumulative effects assessment for good reason, not least because the land take would include the SIFE site. [4.7, 7.49]

### **Other considerations**

#### ***Need***

#### ***Policy***

- 12.88 The NPS is the key national policy document that confirms the importance of SRFIs. The need for development of SRFIs is derived from the Government's vision for a low carbon sustainable transport system that is an engine for economic growth but is also safer and improves the quality of life in communities. [7.1]
- 12.89 The NPS states in an unequivocal way that there is a compelling need for an expanded network of SRFIs. This confirmed need is the basis for assessing applications for SRFIs covered by the NPS. The requirement is for SRFI capacity

to be provided at a wide range of locations in view of the existing uneven geographical spread, the deficiencies of many intermodal rail freight interchanges and the need for flexibility. The need to expand the network of SRFIs applies throughout the country. The expansion of rail freight interchanges serving London and the South East is acknowledged to be a particular challenge. My reading of the policy is that the challenge refers to increasing the number of SRFIs through new developments and is not confined to expansion of existing rail freight interchanges, many of which are said to be poorly located in relation to the main urban areas. The NPS looks toward improving significantly on the existing provision and does not convey a weakening of policy support for SRFIs. [6.6, 7.1, 7.60, 7.63, 8.33, 9.6]

12.90 The Framework, too, identifies rail freight interchanges as an element of viable infrastructure necessary to support sustainable development. There is an expectation that local authorities will work together with transport providers to develop strategies for provision of this infrastructure. At the strategic level, the London Plan confirms a need for a network of SRFIs in and around London but to date there is no detailed co-ordinated strategy for such provision. [5.18, 7.61]

12.91 National policy support for increasing the amount of freight transported by rail is not new and the benefits have been promoted for the last 15 years or more. A policy need for 3 or 4 SRFIs to serve London and the South East was initially established through the work of the SRA and subsequently was an important consideration in determining proposals for SRFI development. The SRA policy was superseded following the designation of the NPS in 2015. The Secretary of State's reference to this level of provision in the Radlett decision in 2014 does not necessarily confirm it continues to have relevance now. The policy position has moved on as a result of the formal designation of the NPS. [6.6, 7.62, 7.63, 8.30]

12.92 The NPS consistently uses the word 'network' and, in its role as a national policy document, gives no indication of the number of SRFI anticipated within the network as a whole or in a region. Consequently there is no quantified target or limit identified to meet the need for SRFIs in London and the South East. The emphasis in the NPS is on proposals meeting the criteria on location in order that SRFIs are near to the business markets served, linked to key supply chains and with effective connections to both rail and road. The policy need is to provide SRFI capacity in a wide range of places, a reason being the forecast growth in rail freight. However, there is an acceptance that the number of locations suitable for SRFIs is likely to be limited, particularly in relation to serving London and the South East. The attention is on quality of provision, not necessarily maximising the number schemes. The rail freight forecasts alone do not provide sufficient fine grain detail to allow site specific need cases to be demonstrated. [7.60, 7.63, 7.64, 8.35]

#### *Policy applied to SIFE*

12.93 Within this policy context, the proposed SRFI at Colnbrook would be located in a region identified as being deficient in SRFI capacity. The development would deliver one facility towards building up a network in accordance with national policy. The relative importance of this provision is informed by the potential availability of SRFI capacity at national and regional level to meet the compelling need described by the NPS.

- 12.94 At national level, the forecast increase in rail freight traffic and market share is interrelated with the development of a network of new rail served warehouses. SIFE is one of a group of relatively small proposed sites (even with the future expansion indicated) identified for forecasting purposes. Therefore proportionally its contribution to the forecast total amount of rail connected warehousing is limited. Lack of success in gaining planning permission, if found to be unacceptable on site specific grounds, would be unlikely to undermine or negate the forecast increase in rail traffic. However, SIFE is the only site identified in the regional cluster and to that extent its significance to establishing a wide network is increased. [7.65, 8.37]
- 12.95 On a regional level currently there is no operational SRFI within the London and South East region to contribute towards meeting the need for these facilities. There is a link missing in the supply chain that reduces the opportunity to use rail to serve the South East and London area direct from the NDCs and the ports. Distance is not regarded by Network Rail as a fundamental constraint. The NPS has identified this gap in the network and encourages extra SRFI capacity. The London Plan, Policy 6.15, also gives qualified support. [5.18, 7.59, 8.38]
- 12.96 The history of the SIFE appeal has been closely linked to a proposed SRFI at Radlett. The position has now been reached where there is a good prospect of progress on the Radlett SRFI proposal to enable the development to be available for occupation in 2018. A central aspect of SBC's case is that the development of Radlett overcomes the need to provide a SRFI at Colnbrook. More specifically, SBC argue that Radlett will satisfy the requirement for a single SRFI to serve the north west sector. In other words Radlett is the alternative to Colnbrook. In order to conclude whether this analysis is correct or the Appellant's reasoning is to be preferred, the Secretary of State's decisions on the Radlett scheme are a useful starting point. [4.8, 7.66-7.69, 8.30-8.36, 8.70, 9.7]
- 12.97 In the 2008 decision the Secretary of State concluded that the Alternative Sites Assessment by Helioslough (the appellant) was materially flawed and the results were wholly unconvincing. This failing was described as critical. The decision clearly stated that had the appellant demonstrated that there were no alternative sites for the proposal this almost certainly would have led to the balance weighing in favour of the development<sup>232</sup>. A new Alternative Sites Assessment was carried out. In the overall conclusions set out in the 2010 decision, the Secretary of State was not satisfied that the appraisal of alternative sites had clearly demonstrated there would be no other suitable locations in the north west sector that would meet the need for an SRFI in the foreseeable future in a significantly less harmful way than the appeal site<sup>233</sup>. In the redetermination decision of July 2014 the Secretary of State came to a different conclusion. One of the factors weighing in favour of the appeal was 'the lack of more appropriate alternative locations for an SRFI in the north west sector which would cause less harm to the Green Belt'.<sup>234</sup>

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<sup>232</sup> GLD/3/C Appendix 24 paragraph 58

<sup>233</sup> CD6.6 paragraph 34

<sup>234</sup> CD6.7 paragraph 53

- 12.98 Throughout the decision making process, the consideration of the availability and planning merits of other potential sites for a SRFI was under the heading of 'alternatives'. This approach was in response to the Green Belt location of the Radlett site and the policy requirement to demonstrate very special circumstances. In the 2010 and 2014 decisions attention was given to the comparative merits of the Radlett and Colnbrook sites, notwithstanding the evidence referred to Colnbrook as a complementary facility. The strong message conveyed in the decisions is that the availability of a suitable alternative site in the north west sector was a key factor in the Green Belt balancing exercise. [7.67, 8.31]
- 12.99 On a plain reading of the 2014 decision, against the background of the previous decisions, the approval of Radlett met the need for a SRFI in the north west sector. Hence a reasonable conclusion is that an additional SRFI at Colnbrook would be hard to justify, especially when more harm would be caused to the Green Belt and where the Strategic Gap is an additional policy restraint. There was no necessity for the Secretary of State to explicitly conclude that there was a need for only one SRFI in the north west sector in light of the purpose of the alternative sites study. [7.67, 8.32]
- 12.100 Since July 2014 there have been two significant changes. Most importantly the NPS was designated in January 2015 and the policy guidance published in 2011 was cancelled. The 2014 decision specifically refers to the 2011 policy being taken into account but not the consultation draft NPS. This would be expected because a draft document has little weight in order not to prejudice the consultation process. In the NPS the drivers of need, the fundamental policy objectives for and the characteristics of SRFIs are no different to those set out in the 2011 interim policy it replaced. Perpetuating the status quo remains an unacceptable option. Both documents identified a requirement for SRFI capacity to be provided at a wide range of locations and the poor existing provision to serve London and the South East. Consequently the NPS did not introduce a sea change in national policy. However, there is a different emphasis on expanding a network of SRFIs – the Government's conclusion expressed in the NPS is that there is a compelling need for an expanded network of SRFIs, whereas the 2011 interim policy concluded 'an expanded network of SRFIs is likely to be needed'.<sup>235</sup> [8.33]
- 12.101 The second change is the cancellation of the SRA guidance of 2004, which identified a policy need for 3 or 4 SRFIs in London and the South East. The question is whether this source of advice and guidance should be taken into account now. The cancellation of a policy document means that the policies should no longer be applied and relied on. On the basis of the *South Northamptonshire* judgement the evidence base may remain relevant – that is a matter of judgement. In respect of the SRA document the need for 3 to 4 SRFIs in the South East region was derived from research undertaken some 10 to 14 years ago<sup>236</sup>. The NPS was informed by more recent forecasts and new developments have taken place and been permitted (such as London Gateway and DIRFT III). I do not consider the evidence base for the SRA guidance to be

<sup>235</sup> CD3.2 paragraph 3.3.4

<sup>236</sup> GLD/3/C Appendix 18 paragraphs 6.8 to 6.10

up to date and reliable. Therefore the policy need for 3 to 4 SRFIs has no weight. [7.63, 8.35, 8.36]

12.102 In the context of the significant policy changes that have occurred, there is scope for following a different line of reasoning on need to that in the July 2014 Radlett decision.

12.103 Based on the Freight Market Study, SIFE is the only scheme identified for the GWML eastern area intermodal regional cluster. The view of Network Rail is that SIFE and Radlett are complementary not least because they will attract wholly independent primary distribution traffic into their sites. The sites are positioned on different trunk rail routes, leading to each site having distinct advantages in serving different destinations in the secondary distribution markets. Helioslough agrees that there is scope for more than one SRFI to be developed within the north west sector to serve London and the South East. There was no up to date evidence to contradict or question these opinions. SBC relied on the SRA policy need that I consider no longer applies. [7.68, 7.102, 8.30, 8.35]

12.104 I conclude that the development of Radlett, a significantly larger scheme than SIFE, undoubtedly would improve the position on SRFI provision in the South East Region. However, the current policy need for a regional network has not been overcome by Radlett and SIFE is able to be regarded as a complementary facility as part of a wider network. [4.8]

12.105 Turning to other developments, London Gateway is primarily a port development and the greater proportion of the logistics park functions as a NDC. The NPS states its development will lead to a significant increase in logistics operations. There is also the capacity to develop a subsidiary SRFI role, particularly because of the proximity of the London market. The likelihood is that the 'the break even' distance identified in the KIG report has limited relevance to SIFE because of such matters as the variables involved, the circumstances of the situation being considered and the potential progress in developing rail service provision. In respect of the latter point, Mr Ives referred to the establishment of shuttle services between Colnbrook and the deep sea ports in the future. Therefore in the context of the NPS, London Gateway would not negate a need for SIFE as a means of increasing flexibility and the future opportunities for rail freight and the expansion of the network of SRFIs in the South East. [4.11, 7.66, 8.40-8.42]

12.106 As to other sites, Renwick Road, Barking is operational on a small scale, and is expected to be operating at capacity within 5 years. There is the prospect of significant further expansion there in the period to 2043. There is interest in progressing development at Howbury Park. However, the NPS is encouraging a better geographical spread to provide flexibility. These two sites are to the east and south east of London and less well located to efficiently serve the potential business markets and supply chains associated with SIFE. [4.9, 4.12, 6.10, 8.39, 8.43]

### *Conclusion*

12.107 The NPS makes clear that perpetuating the status quo, which means relying on existing operational rail freight interchanges, is not a viable option. There are grounds for optimism that the position will change in relation to

London and the South East region. London Gateway is capable of fulfilling a SRFI role, there is a reasonable probability that Radlett will be operational in 2018 and there is the prospect of Howbury Park being progressed to implementation. Rail connected warehousing is under development in Barking. On the downside the geographical spread is uneven. There is a noticeable gap in provision on the west side of London, with Radlett being complementary to rather than an alternative to SIFE. SIFE would contribute to the development of a network of SRFI in London and the South East and a wider national network in accordance with the policy objective of the NPS. [7.66, 8.45]

### ***Transport links and location requirements***

12.108 The NPS requirements for a SRFI site focus on attributes of the location in relation to the rail and road networks, business markets and supply chains, availability of a workforce and sensitivity of the environment. The capability of a site to accommodate the necessary level of rail infrastructure and efficient configuration also is important. From the outset a rail freight interchange should be developed in a form that can accommodate both rail and non-rail activities to enable businesses to support their commercial activities by rail.

#### *Road and rail networks*

12.109 The site has good access to the road network, with direct access onto the A4 Colnbrook Bypass and within a short distance of junctions onto the M4 and M25 within the motorway network. The Transport Assessment has demonstrated that the road network in the vicinity of the site has the capacity to absorb the traffic generated once the proposed highway improvements are carried out. [2.1, 6.17, 7.34, 7.35, 7.70]

12.110 The Colnbrook Branch Line, suitably upgraded, would provide a direct connection to the GWML. The GWML is a core trunk route in the strategic rail freight network and links to major rail routes with suitable gauge capability (on main line and connecting routes) that serve key cargo origins in England and Scotland. [3.10, 6.17, 6.23, 7.71]

12.111 The connection between SIFE and the GWML would not be ideal because all trains would have to approach the site westbound along the GWML, entering the Colnbrook Branch Line at West Drayton junction. Consequently not all freight train operations to the site would be direct, in so far as trains from Southampton via Reading, the west of England and south Wales would have to pass West Drayton on the GWML and reverse, and then proceed back to West Drayton junction and the Colnbrook Branch Line. With the SFN functioning as a network, some freight operations from the Midlands and the North may be similarly affected. [6.20, 8.58]

12.112 In general terms indirect connections may be expected to affect capacity and add time and costs to a rail freight service, reducing its competitive position. However, offering direct train routes in all directions is not a policy requirement – the NPS states ‘adequate links to rail networks are essential’. The provision of a configuration that will allow main line access for trains from either direction is the ‘ideal’. Rail freight forecasts suggest that a significant level of rail borne cargo is unlikely to originate from these markets to the south and west. My conclusion is that, whilst not a major disadvantage, these indirect train routes potentially would reduce flexibility and efficiency over the lifetime of



the scheme. Rail freight connectivity should not be described as excellent but it is more than adequate. [7.74, 7.76]

12.113 Rail freight services would have to pass through London when travelling between the site and the east coast deep sea container ports, northern England and Scotland, the Midlands and mainland Europe via the Channel Tunnel. This is more a result of London being at the hub of the SFN, where the main routes converge and is not necessarily an indicator that the site is in a poor location. There is evidence to indicate that routes through London are congested and a strategic objective of Policy 6.14 of the London Plan is for the development of corridors to bypass London, especially for rail freight. There is counter evidence on measures that have increased and will increase capacity. In my view the routeing through London is not a serious disadvantage when balanced against the objectives of achieving a transfer of freight from road to rail and a good geographical spread of SRFIs to serve the London and the South East markets. [5.18, 7.73-7.75, 8.59]

12.114 The NPS states that as a minimum a SRFI should be capable of handling four trains per day and where possible be capable of increasing the number of trains handled. As well as the site being physically capable of accommodating this level of use, the railway lines providing access to the site must have the capacity to allow frequent freight services to operate. The Appellant and SBC agree that availability of at least one freight path per hour per direction during the off peak is a minimum requirement. [6.24]

12.115 Network Rail has to establish strategies to inform the long term development of the rail network as a condition on its licence. The methodology of its long term planning process was endorsed by the then Office of Rail Regulation in 2012. Furthermore the rail freight forecasts used by Network Rail to inform its long term planning are the forecasts that have been incorporated into the NPS. The NPS confirms the forecasts and the method used to produce them are robust and are accepted for planning purposes. For these reasons Network Rail may be regarded as authoritative on rail capacity.

12.116 More specifically, demand to and from the SIFE site was built into the baseline assumptions in producing the intermodal rail forecasts. Network Rail through its Western Route Study anticipates providing 4 standard freight routes per hour between Reading and London in 2019, sufficient to cater for growth to 2023. The probability is that one of these paths would be more or less dedicated to the SIFE site. The draft 2019 timetable being developed by Network Rail indicates that Crossrail trains and WRATH trains would also be accommodated. On this basis adequate freight capacity would exist in the early years of operation. In looking forward to 2043 there is no change to the intermodal paths. It is the forecast increase in construction materials traffics that will be addressed and adjusted within future planning cycles. [7.72, 7.73 8.59]

12.117 There is a degree of uncertainty over freight capacity particularly in the longer term. However, an objective of Network Rail is to cater for freight growth on the network and Network Rail has been consistently supportive of SIFE. The probability is that the railway lines providing access to the site would have the capacity to allow frequent freight services to operate. [7.75]

12.118 In summary, the proposed SRFI would be able to be accommodated on the existing road and rail network in compliance with one of the criteria of the CS. The site is close to major trunk roads and would be connected to the SFN, as required by the NPS. Being well located to rail and road corridors is also a factor highlighted by the London Plan. The SRFI development would be able to handle the required numbers of trains and therefore be capable of providing a good level of service provision. [6.19]

*Business markets and supply chains*

12.119 SIFE would have a central position within the supply chain, connected by the SFN to the main origins of goods – the deep sea ports, the Channel Tunnel, the national and regional distribution centres in the Midlands, the north of England and Scotland. [7.66, 7.78]

12.120 The site is located near to the London conurbation and, as has been demonstrated, the proposed SRFI would be well located to the strategic rail and road networks. Road transport would still be the dominant mode for the majority of cargo arriving and departing the site. Therefore good links would exist to the off-site distributors, retail outlets and consumers as well as to domestic producers and manufacturers at the other end of the supply chain. [7.81, 7.83]

12.121 The SIFE scheme is intended to serve the South East regional market, primarily the expanding West of London market. The consumer market and retail outlets are highlighted as the main destinations for the freight handled at SIFE. The Thames Valley location and proximity to major highways indicate that the site would be appropriately situated to do so. [6.8, 7.77, 7.79]

12.122 There is undoubtedly a high demand for new large distribution units in the area to remedy an increasing deficiency in supply. A strong market demand for a SRFI west of London has been demonstrated from rail freight service providers and operators, in order to fill an obvious gap in the regional supply chain. This is consistent with the projected growth of rail freight and the desire of companies, especially in the retail business, to improve their environmental credentials by delivering a modal shift from road to rail in the transport of goods. [7.79, 7.82, 7.84]

12.123 The estimated HGV and rail traffic to and from the site and the volumes of freight indicate how the site may function in relation to the supply chains and markets and the role of rail within the overall movement of goods. Most of the freight transported to the site by rail is forecast to come in/leave via the intermodal terminal – when in full operation 8 of the 9 trains per day are expected to arrive at the intermodal, with 1 train to the warehouses. The probability is that the companies occupying the distribution units would use these units as regional distribution centres. This is reflected in the forecast inbound volumes of freight, which is weighted towards the warehouses (123 units) rather than off-site distributors (103 units). The Appellant also has acknowledged that the warehousing would predominantly serve the London and South East regional market and is unlikely to generate outbound rail traffic. However, off-site distributors may not be so conveniently located to the site, given the 'inadequately warehoused' character of the surrounding area. [6.22, 7.77, 7.80, 7.84, 7.89, 7.90, 7.92, 8.47, 8.51, 8.52]

12.124 In fact the largest single element of the forecast rail traffic for the intermodal comprises the 167 units per day all from off-site exporters. The exports were described as locally manufactured goods, waste paper etc. The supply area subsequently identified was the Thames Valley area. A large stock of industrial and warehousing premises exists but the area has a declining manufacturing base. Around Heathrow Airport businesses tend to specialise in high value goods exported by air. In this context and by comparison with the expanding consumer goods market, there was little specific evidence to justify the forecast export 'market' for the intermodal and how it would work into the future. This is a potential weakness of the location. [6.9, 7.80, 7.81, 7.90, 8.48-8.50]

12.125 In conclusion, the development would be conveniently located for the modern logistics and supply chain industry, especially the ports and the retail sector. An objective of the NPS would be met. The success of the development in delivering modal shift is addressed later as a separate consideration.

#### *Sensitivity of the area*

12.126 The thrust of national and development plan policy is to avoid noise giving rise to significant adverse impacts on health and quality of life as a result of new development. Where noise would have adverse effects consideration should be given to mitigating and minimising those effects, taking account of the social and economic benefits being derived from the activity causing the noise. The NPS recognises that a SRFI must be able to have continuous working arrangements.

12.127 SIFE would be located in an area that has a mixed pattern of land use and is crossed by motorway corridors. The baseline noise is determined by the proximity of Heathrow Airport, the M4, the M25 and the A4. The intention is that SIFE would operate 24 hours a day and 7 days a week. Noise would be generated on-site from rail freight handling, operation of fixed plant and machinery, lorry manoeuvring and loading. The noise source off-site would be road and rail traffic. [2.1, 2.9, 3.9]

12.128 Dwellings to the west of the site towards the M4 junction 5 and also on the northern fringe of Colnbrook were assessed to be the closest noise sensitive receptors. In order to mitigate noise generated on-site the proposal is to construct 3 m noise barriers near to Unit A. Noise monitoring would be required by planning condition, with provision made for additional mitigation measures in the event the noise from open air activities or fixed plant and machinery exceeded the specified levels at properties in Colnbrook. The use of loudspeakers or public address systems would not be permitted. A night time lorry routeing protocol, secured through the section 106 agreement, would address the minor adverse effects on residential properties in Brands Hill. [6.14, 11.9, 11.14]

12.129 In respect of railway noise, the ES concluded that there would be negligible effects on the clusters of dwellings adjacent to the Colnbrook branch line in the residential area near West Drayton junction. No mitigation would be necessary to protect residential amenity.

12.130 I conclude that the noise effects on health and quality of life associated with the proposed SRFI would be acceptable, subject to carrying out the

appropriate mitigation. With reference to earlier conclusions, the sensitivity of the location in the Green Belt, Strategic Gap and Colne Valley Park is not primarily due to the impact of noise and light. The ecological concerns in respect of birds and bats are able to be addressed by requirements and controls secured through the use of planning conditions.

### *Scale and design*

12.131 The proposed rail infrastructure comprises the main line works and connection, the track and arrival/departure sidings, the reception sidings and the intermodal terminal with gantry cranes. By reason of the provisions of the section 106 agreement, this infrastructure would be completed and capable of use before the first occupation of any of the warehouse units. All additional rail infrastructure would be completed before first occupation of a rail connected warehouse. [11.20]

12.132 There would be a main line access for trains from a single direction. The site layout and configuration of the sidings would allow for efficient and flexible movement of trains and wagons. Sufficient capacity would be provided at the reception sidings to enable the handling of at least 4 x 775 m trains per day with modern wagons. The 400 m cargo handling sidings at the intermodal terminal would require trains to be divided but this would not cause any operational difficulties. Overall the development is expected to be capable of handling up to 12 trains a day, well above the minimum four trains a day stated in the NPS. [6.5, 7.87]

12.133 The intermodal terminal area would have stacking and storage areas alongside the railway sidings and the compact layout of the site would enable easy and quick transfer of goods to the on-site warehouse units. The elimination of a road journey has the advantages of improving speed and reliability, with reductions in costs and emissions. Each of the three separate warehouse units would be designed to contain loading docks to allow the loading or discharge of cargo transferred from the intermodal terminal. In addition, railway sidings alongside Units B and C would allow the transfer of cargo from box wagons directly into the warehouses. [3.4, 3.8]

12.134 The proposal satisfies the criteria in the NPS to a very good standard for the scale of development.

### *Workforce*

12.135 The NPS identifies the availability of a suitable workforce as an important consideration. The employment capacity of the SIFE development is estimated to be approximately a net additional 1,500 to 2,100+ FTE jobs. The potential skills required range from manual labour to logistics management. [7.109]

12.136 The evidence focused attention on the potential pool of labour in the area to the west of London, where Slough and Hillingdon were found to have unemployment rates higher than the national average. That is not to say that the necessary skills are available. The proposed Local Employment Scheme would be a mechanism for the provision of training opportunities. Slough and adjacent local authority districts were shown to have a relatively high proportion

of the workforce employed in the transport, storage and communications sector, an appropriate indicator of the availability of suitable skills<sup>237</sup>. The site is also reasonably accessible by public transport and provision is made for improvements to bus services and cycle routes. All matters considered, labour supply does not weigh against the proposed location and the indication is that this factor is relatively supportive of the location. [6.16, 6.25, 6.29, 7.94, 7.95, 11.27]

### *Conclusion*

12.137 SIFE would have the transport links and location attributes to fulfil the NPS requirements to a very good standard.

### ***Transfer from road to rail***

12.138 The aim of a SRFI, as expressed in national policy, is to facilitate the transfer of road to rail and to optimise the use of rail in the freight journey in order to reduce trip mileage of freight movements on the national and local road networks. The desired outcome is to secure an actual modal shift and increased use of rail for freight transport. A more stringent test is set by the CS in that a high level of rail use of the warehousing would have to be guaranteed in order to ensure the proposed benefits of the SRFI are actually delivered. [5.7, 6.7, 7.83, 8.55]

12.139 The Inspectors' reports on the Howbury Park, Radlett and KIG appeals all referred to suspicions that the proposals were a means of securing planning permission for large road based warehouse complexes in a Green Belt location near London. The approach taken by the Inspectors in Howbury Park and KIG was to assess whether the Secretary of State could be 'reasonably assured' that the site would operate as a SRFI. Such an approach is in line with the emphasis in national policy on facilitating rail use. An alternative similar test is the balance of probability. For SIFE the CS implies a greater level of certainty. That being the case, a form of guarantee may have a role in ensuring the distribution units have a high level of rail use. [8.46]

12.140 Similarly a concern of SBC, as well as others including Colnbrook with Poyle Parish Council and RPRA, is that the units would be occupied by companies primarily interested in road to road transport of goods. There is serious doubt whether a modal shift of any significance would be achieved. These concerns have some justification. There is a shortage of large warehouses and sites in the area with similar convenience to the motorway network and Greater London. There is a pent up demand for such an opportunity and companies may be prepared to pay a premium to secure occupation. On a wider assessment of achieving modal shift, there are some question marks over the location in relation to business markets. In particular, evidence is lacking on the types of manufacturers and exporters that would seek to supply goods to the intermodal terminal for export out of the area (the 167 units). [6.8, 8.46-8.57, 8.60, 10.27, 10.45]

12.141 There are several considerations to balance against these matters. My approach is to assess the proposal as presented, taking into account the

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<sup>237</sup> CD1.16 Appendix 6 (page 172), CD1.35 paragraph 4.2

planning obligations secured through the section 106 agreement. In view of the statutory provisions for enforcing the obligations, I attach no weight to the absence of sanctions within the deed to ensure the proposed train services are in fact provided. [8.56]

12.142 Firstly, the rationale behind the concept of a SRFI is that these developments are needed to respond to the demand from the logistics sector and changing market conditions. It follows that provision of well designed SRFIs in good locations should result in the use of rail. Consequently a SRFI with a high level of compliance with the locational requirements may reasonably be expected to attract a high level of rail use. National policy accepts that there will continue to be use of road transport alongside rail at a SRFI, hence the need for good road access. The NPS refers to rail being used to best effect to undertake the long haul primary trunk journey, with road usually providing the secondary (final delivery) leg of the journey. The SIFE site has good transport links and all location requirements are met. The development would provide the necessary physical rail infrastructure and intermodal terminal and be capable of accommodating up to 12 trains a day. [7.87, 8.46]

12.143 The developer has confirmed a commitment to developing the use of rail. Investment in the rail infrastructure would be part of the first phase of the development. A rail freight development plan would promote awareness and use of the rail freight services at the development and identify targets for inbound rail traffic for each commercial unit. The plan would be the primary mechanism of delivering the actual use of the train service and has similarities to a travel plan. DB Schenker Rail, the largest rail freight operator in the UK, has agreed to be the operator of the intermodal terminal. In accordance with the planning obligation at least 1 train service per day to the intermodal terminal would be provided within three months of the opening of the terminal. Thereafter the probability is that the agreed high level of rail service would be maintained for a period of just less than five years. The target is 9 trains to the intermodal per 24 hour period within 10 years. In terms of physical capacity, the option of the use of rail for freight transport would be available to the occupiers of the distribution units from the first day of occupation. The implementation of these measures would facilitate the use of rail freight at SIFE to a high degree. [3.5, 6.7, 7.86, 7.87, 11.20]

12.144 A high level of rail use is not defined by the CS. However, it is common ground that the level of rail service the Appellant has agreed to provide would be a high level of rail service for the early stages of operation of SIFE. The Council also accepted that the proposed rail service would ensure the benefits of the freight exchange would be actually delivered if fully utilised. A distinction needs to be made between a rail service and its use. The forecasts by the Appellant provide several indicators of rail use and represent the only quantitative evidence available. The HGV comparison between non-rail and rail connected warehousing looks disappointing, with a relatively small reduction in the total number of HGVs per day. The rail mode share on a per HGV equivalent unit basis is more encouraging. The 25% or so saving in HGV km per annum would be significant. The rail market share comparisons with the national context only relate to inbound traffic to SIFE and so do not give a complete picture. Overall, the forecasts indicate a significant modal shift within fifteen years of operation. [6.7, 7.89, 7.91]

- 12.145 Evidence of experience of rail use at SRFIs elsewhere is derived from the West Midlands. A steady growth in rail freight is seen particularly in the number of wagons and tonnes lifted, whereas the performance is unconvincing based on the number of trains for the size of development. However, the evidence was shown to have limitations for comparative purposes and so has limited value as an indicator of rail use at SIFE. [7.93, 8.54]
- 12.146 Therefore actual achievement of a high level of rail use and modal shift would rely on general factors such as the competitiveness of rail, the quality and increasing flexibility of the rail freight services, environmental awareness and corporate responsibility. The growth in the use of rail for freight transport in recent years and the forecast of this growth continuing, commitment to infrastructure improvements by Network Rail and national policy support are all positive factors to be taken into account. [7.74, 7.82]
- 12.147 Specific to SIFE, the indicators of a high level of rail use being established in practice are the commitment of the developer, the confidence of the intermodal operator and more especially the advantages of the location to the West London market area and the good standard of development proposed. The development and associated measures are directed at encouraging the use of rail for transporting freight, rather than punitive measures for not using the rail infrastructure. This approach is compatible with the NPS policy where the emphasis is on facilitation. Two main caveats are relevant - development of a high level of use is expected to be gradual and inbound rail freight is likely to be a dominant component in the contribution to modal shift. [7.87, 7.91, 7.93, 8.47]
- 12.148 SBC has argued that a reliance on market forces is insufficient to achieve a high level of rail use for the warehousing and that the development plan requirement of a guarantee is essential. However, no reasonable mechanism has been put forward by SBC to deliver a guarantee of use of the rail service provided. Experience from proposed SFRIs elsewhere does not provide a model to follow. Measures anticipated by TfL have not been secured. There would be a risk that a high level of rail use would not come about. If such a risk is considered to be unacceptable then the scheme could not be supported. All the indicators are that the risk of not attaining a high level of rail use would be low. [8.55, 10.66, 11.35]

### ***Carbon emissions***

- 12.149 In promoting sustainable development the Framework encourages solutions which support reductions in greenhouse gas emissions. A rail freight interchange is regarded as such a solution in promoting sustainable transport. Similarly the NPS states that the transfer of freight from road to rail has an important part to play in a low carbon economy and in addressing climate change. Clearly there is a policy justification and expectation that a SRFI will bring carbon savings. [7.107]
- 12.150 The Appellant's analysis gives some indication of the reduction in carbon emissions as a result of SIFE facilitating the movement of freight by rail. When the comparison is made against the road only scheme, the saving is significant. In a wider context, the significance is very much less. The reduction is a positive factor that has some weight. [7.106, 7.115, 8.62, 8.63]

***Economy and jobs***

- 12.151 The beneficial economic effects of the development would be felt in the area both during construction and operation. The on-site employment opportunities across a range of skills would be supplemented by the activity generated through the injection of income into the wider economy. A planning obligation prioritises the use of local labour through a local employment scheme. Provided that there is a growing market, additional jobs would be created and negative impacts on existing warehousing firms, through transfer of labour, would be minimised. Efficiencies would be gained by improved transport linkages, more especially by rail, within the supply chain and to market areas. This benefit would distinguish the SIFE scheme, when compared to relying on growth at warehouse facilities elsewhere in the region. [7.108-7.112, 8.64, 8.65]
- 12.152 The SIFE scheme would promote national policy objectives to secure economic growth, as expressed in the Framework and the NPS. The development would provide significant benefits for the local economy commensurate to its scale. In my view this factor has some weight. [7.115, 8.65]

***Alternative sites***

- 12.153 The issue of alternative sites has been partially considered under the heading of need, where I concluded that Radlett is a not an alternative to SIFE but is a complementary SRFI facility as part of a wider network. No other possible alternative sites were taken into account in reaching that conclusion.
- 12.154 An assessment of alternative sites was undertaken in 2010 and has been updated on two occasions, most recently in May 2015. The basic methodology was generally consistent with the methodologies used for the Radlett and DIRFT III alternative site assessments, which were found to be robust by the Secretary of State. SBC has disputed the core market area centred on West London but the independent research supports such a definition. In any event adjacent sensitivity areas were also taken into account. There are no reasons to dispute the methodology. [5.19, 8.30]
- 12.155 Of the four short listed sites identified by the assessment, Radlett now has planning permission and in the current policy context does not represent an 'alternative'. The site at Upper Sundon, near Luton, has been identified as suitable for an intermodal rail freight exchange associated with the Luton/Dunstable area. It is not of sufficient size to accommodate a SRFI and hence is not an alternative to SIFE. The two sites in the Toddington and Harlington area, located in the far north of the area of search, subsequently have been confirmed to have serious connectivity constraints. There is no suggestion in this appeal that this option represents an alternative to SIFE. No other area of land has come forward or been identified. Recent market reviews have confirmed a lack of supply of large strategic sites for distribution in the West of London market area, even without a requirement for a rail connection. A similar view is expressed in the statement of common ground. [6.8, 6.11, 7.101]
- 12.156 Therefore there is no identified alternative site to SIFE, in the sense of being capable of fulfilling the same purpose, serving the same markets and being geographically comparable in order to achieve the desired spread of SRFIs



round Greater London. This is a matter of considerable weight in favour of the proposal.

### ***Use of Green Belt land and LGIS***

12.157 As shown by the Alternative Sites Assessments finding a suitable site for a SRFI to serve London and the South East is very difficult. The focus of the area of search on the Metropolitan Green Belt responds to the NPS requirement for new facilities alongside the major rail routes, close to major trunk roads as well as near to the conurbations that consume the goods. However, the Framework makes no exception for SRFIs to be located in the Green Belt. The NPS, whilst acknowledging promoters may find the only viable sites are on Green Belt land, draws attention to the special protection given to Green Belt land. I attach no weight to 'the development being essential on Green Belt land', being a matter that is adequately covered through the other considerations of need and alternative sites. [7.3, 7.5, 7.103, 7.115]

12.158 The LGIS is to mitigate harm caused by the development to landscape character, amenity, public rights of way, biodiversity and to ensure a high standard of design as required by national and development plan policy. Consequently no positive weight is warranted. [7.104, 7.105, 8.68]

### **Other matters**

12.159 Heathrow 3<sup>rd</sup> runway. The deliberation on airport expansion in the South East and more specifically the final report and conclusion of the Airports Commission was not a reason to delay hearing the SIFE appeal at the Inquiry in September 2015. A Government conclusion on the location for expansion is due in the summer of 2016. [1.4]

12.160 The appeal site has not been safeguarded for airport expansion and its planning status in the development plan is Green Belt land. The Heathrow 3<sup>rd</sup> runway option is not contained in any emerging policy document. There is no emerging local plan and, applying Planning Practice Guidance, the proposal is not considered premature. SBC did not pursue its argument that the Heathrow 3<sup>rd</sup> runway option was a reason for withholding planning permission. In the event the appeal is successful, the focus of SBC's evidence was on delaying development until there is greater certainty over the location of airport expansion. [7.97, 7.98, 8.66, 10.35, 10.64, 11.33]

12.161 Given the current position and the uncertainty over whether or not a new north west runway at Heathrow will be progressed I will give no weight to the matter in the Green Belt balancing exercise.

12.162 Land ownership. As a matter of fact the Appellant does not own all the land necessary to carry out the development. Land outside its ownership is essential to the scheme. In the Radlett 2014 decision land ownership was considered in the context of the unilateral undertaking. The Secretary of State considered whether there were no prospects at all of the development starting within the time limit imposed by the permission and was satisfied that was not the case. In this case SBC has made no decision on making its land available for the SIFE development. The position is not straight forward because of SBC's support for the Heathrow 3<sup>rd</sup> runway option. There may be a problem with site assembly but I would not go so far as to say there would be no prospects at all

of the development starting within the time limit imposed should permission be granted. The ability to deliver SIFE is a neutral factor that counts neither for nor against the development. [2.3, 7.99, 8.67]

## **Planning conditions**

12.163 Conditions are used to enhance the quality of a development and to mitigate any adverse effects in order that development may proceed when otherwise refusal of planning permission would have been necessary. The Framework confirms that planning conditions should only be imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects. The schedule in Appendix 1 lists the planning conditions I consider should be imposed on a grant of planning permission for the proposed SIFE development. A number of amendments have been made to the submitted draft schedule of conditions and the list takes into account the various comments made at the Inquiry.

### *Scope of conditions [11.1-11.15]*

12.164 The conditions fall into four broad categories. The first reflects the outline nature of the application, requiring submission of the reserved matters and imposing the standard timescales for submission of details and commencement of development. The second group comprises conditions that prevent any development from taking place until the conditions have been complied with (conditions precedent). These conditions have only been used where the requirements of the condition are so fundamental to the development that it would otherwise have been necessary to refuse planning permission. The conditions are primarily directed at:

- ensuring the effects on protected species and habitats and the water environment are minimised and statutory requirements are met;
- prioritising public safety in relation to flood risk, land contamination and overflying aircraft;
- safeguarding the amenity of the local community, for example in relation to noise, traffic and access;
- ensuring certain outstanding details of the development are addressed at an early stage to secure a high standard of design and provision of essential elements prior to first occupation;
- making provision for archaeological investigation, which can only be effective pre commencement of development.

12.165 The third group links submission of outstanding details to occupation of the development and covers matters such as remediation of any land contamination, external lighting and refuse disposal. These conditions are necessary in the interests of public safety, amenity and visual amenity.

12.166 The final group are the conditions controlling the use and size of areas and buildings within the development. National policy states planning conditions should not be used to restrict national permitted development rights unless there is a clear justification for doing so. Similarly, the Planning Practice Guidance advises that conditions restricting permitted development rights or

change of use will rarely pass the test of necessity and should only be used in exceptional circumstances.

- 12.167 In this proposal the EIA was based on the elements of the scheme defined by the parameter plans. An increase in floor space above the stated amounts or a change in the composition of the uses could have significant implications for the functioning of the site, the amount of traffic generated and the overall impact on the local environment. [3.2]
- 12.168 Secondly, the proposal concerns a Green Belt site where in order to gain planning permission very special circumstances have to be demonstrated. A fundamental justification for the development is that it is a SRFI, a use that has particular characteristics and location requirements. A change in the primary distribution use would undermine the concept of the development and the essential function of the scheme. A key component of the spatial and regeneration strategy for the Borough is to direct intensive employment generating uses, such as B1(a) to the town centre (Core Policies 1 and 5). Finally, there are the distinct market characteristics and pressures that have evolved due to the proximity of the area to Heathrow Airport.
- 12.169 These factors amount to a clear justification to restrict national permitted development rights and to be very specific about the uses that are allowed by a grant of planning permission. Having in mind case law on the matter, a restriction of the type under consideration should be placed on the development by a planning condition in clear and unequivocal terms. To rely on removal of a right by implication is not good practice.
- 12.170 In this context I conclude that in conjunction with specifying the total amount of floor space for each distribution unit it is necessary to remove permitted development rights under Class H of Part 7 of Schedule 2 of the GPDO for the alteration or extension of the warehouse unit. A separate condition removes permitted development rights under Class H for the erection of a new building. In addition, to ensure the distribution units would be used for Class B8 storage or distribution and for no other purposes it is necessary to remove permitted development rights to change to Class B1 general business use and to residential use under Classes I and P of Part 3 of Schedule 2 of the GPDO. A restriction on changes of use will not restrict ancillary activities. In this case there is justification for limiting the amount of ancillary office space to ensure that the maximum amount of floor space within a unit is maintained for the primary distribution use.
- 12.171 Under the operation of the Town and Country Planning (Use Classes) Order 1987 any part of a distribution unit could change to a different type of warehouse space occupied by a company engaged in the business of transporting goods by air. The proximity to Heathrow and the need to encourage use of rail at the SRFI are particularly relevant considerations. A restriction is clearly justified.
- 12.172 The provision of new hard surfaces, permitted under Class J of Part 7 of Schedule 2 of the GPDO, could be at the expense of incidental landscaping. There are not the circumstances to justify removing these rights in view of the requirements in the section 106 agreement in relation to the LGIS and the landscape reserved matters that will be required and controlled through planning conditions.

### *Other matters*

- 12.173 During the period of construction the CEMP would have a critical function in reducing the impacts on the local environment and the local community. The condition includes a number of requirements identified in the ES as mitigation.
- 12.174 All the specific matters raised by interested parties have been considered. Given that the six tests would be satisfied, conditions provide for liaison groups to be established both during construction and subsequent site operation, noise monitoring and the imposition of a limit on sub-division of the distribution units. Matters to do with air quality, highway works and junction improvements and routeing of HGV vehicles are covered by planning obligations in the section 106 agreement. [10.35, 10.40, 10.44, 10.55]
- 12.175 Conditions to protect and enhance biodiversity are necessary to ensure the development would not have a significant effect on the internationally important interest features of the SPA and to secure compliance with Core Policy 9 of the CS and Policy EN22 of the LPfS. The requirements of the conditions do not repeat those covered by the planning obligation on landscape and green infrastructure works.
- 12.176 In order to avoid duplicating provisions of the section 106 agreement on highway works, details of the site access are not required. A condition in relation to public rights of way is unnecessary in that it duplicates the separate statutory procedure that exists for diverting or stopping up the rights of way and would require the developer to do something out of his control. [6.3, 11.4]
- 12.177 The suggested condition regarding infiltration of surface water has been covered in the condition requiring the submission and approval of a sustainable drainage scheme <sup>238</sup>.

### *Conclusion*

- 12.178 The main purposes of the suggested conditions would be to enhance the quality of the development, provide for essential mitigation and ensure the development functions as an SRFI. In the event planning permission is granted I am satisfied that all the conditions in the schedule forming Appendix 1 comply with policy in the Framework in that they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

### **Section 106 agreement**

- 12.179 The planning obligations will ensure the installation and construction of the necessary highway and rail infrastructure, encourage the use of rail for freight transport and sustainable modes of travel, facilitate recreation and access in the Colne Valley Park, conserve biodiversity, promote local employment opportunities and secure sustainable methods of design and construction. There also are obligations to restrict the use of the development to achieve air quality objectives, to avoid restricting development of the WRATH and to take account of the traffic effects of other development projects.

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<sup>238</sup> GLD/IQ/28 condition 34

12.180 All the planning obligations are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The obligations comply with the statutory tests in Regulation 122 and with the policy tests in paragraph 204 of the Framework.

12.181 The area of dispute is whether the section 106 should have included obligations (a) to prevent the development taking place in advance of a decision on the proposed Heathrow 3<sup>rd</sup> runway, and (b) to secure the proposed train services by additional sanctions to act as an incentive to use rail for freight transport. The following observations are offered to inform a decision on the weight to be attached to these matters. [11.32-11.36]

*Heathrow 3<sup>rd</sup> runway*

12.182 For such an obligation to have any effect would require a grant of planning permission. Therefore the development would have been found acceptable on its planning merits. The statutory requirements in the 1990 Act are directed at encouraging commencement of development by limiting the duration of a planning permission (sections 91 to 93) and providing the power for the service of a completion notice (sections 94, 95). A requirement to delay the commencement of a development that has planning permission would be inconsistent with the statutory framework and interfere with the benefit of the permission.

12.183 The proposed wording of an obligation incorporates indeterminate timescales and therefore would be imprecise and unreasonable. The obligation does not address the possibility of a favourable decision on a 3<sup>rd</sup> runway at Heathrow. Therefore even with such an obligation in place the harm that it seeks to prevent could still happen.

12.184 For these reasons the obligation proposed by SBC would not be necessary to make the development acceptable in planning terms and would not be fairly and reasonable related in scale and kind to the development. Such an obligation would fail to comply with the statutory and policy tests.

*Sanctions and rail use*

12.185 The physical infrastructure, the provision of the train services and a rail freight development plan are directed primarily at encouraging the use of rail for transporting freight. A timescale for provision of the train services is linked to first occupation of the intermodal terminal and the distribution units. The restrictions on occupation are indirect in so far as they would operate through the contractual arrangements between the Appellant and the operator of the intermodal terminal.

12.186 The text of the planning obligation proposed by SBC seeks to introduce a penalty against the occupiers of the distribution units in the event the train services are not provided. A difficulty that arises is that the occupiers would have no control over the running of the rail services, nor would they be in total control of the mode of transport of goods. Therefore to require space to be cordoned off within a unit in the event part or all of the train services were not provided would be unlikely to meet the test of reasonableness. Such a restriction could also be regarded as inconsistent with national policy, where the

use of sanctions or penalties is not promoted as a way of securing a high level of rail use. That being so, the obligation would not be necessary to make the development acceptable in planning terms. The statutory and policy tests would not be met. The fact that a similar penalty has not been imposed on SRFI developments elsewhere supports this conclusion. [7.87, 8.56, 11.34, 11.35]

## **Green Belt Balance, Strategic Gap and Conclusions**

### *Very special circumstances*

- 12.187 The principal policy applying to the proposed development is the national planning policy on the Green Belt. The CS takes the lead from national policy in requiring very special circumstances to justify the development. Paragraph 88 of the Framework states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. [5.2, 5.3, 5.7, 6.1, 7.1, 8.1]
- 12.188 The meaning of 'any other harm' referred to in paragraph 88 was the subject of the *Redhill Aerodrome* judgement<sup>239</sup>. The Court of Appeal concluded that 'any other harm' is not confined to harm to the Green Belt but also includes any other harm that is relevant for planning purposes. Therefore I will take account of the harm to the Strategic Gap as well as the conflict with the purposes of the Green Belt. However, there is some similarity in policy aims, which will affect the weight given to these factors to avoid 'double counting'.
- 12.189 The proposal is inappropriate development and by definition harmful to the Green Belt. In addition, substantial harm would arise from the severe loss of openness. Given the location of the site, its role in the wider pattern of development and the characteristics of this part of the Green Belt there is conflict with three purposes of the Green Belt. The proposal would contribute to urban sprawl, be incompatible with the purpose of preventing neighbouring towns merging into one another and lead to a major encroachment into the countryside. The fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open would be undermined. The totality of the harm to the Green Belt has very substantial weight. The designated Strategic Gap highlights the critical importance of the Green Belt in this part of Slough and that some parts of the Green Belt are more valuable than others. The damage to the Strategic Gap would be irreparable, which adds significant weight against the proposal.
- 12.190 Colne Valley Park is a regional asset and a recreational resource for the local community. The countryside and amenity of the Park would be eroded. Taking account of the LGIS and the potential off-site enhancements, the harm to the Park has moderate weight. The harm to landscape character has a small amount of weight, with slightly more weight to the harmful local visual impact.
- 12.191 The traffic implications, the increase in HGVs and effect on air quality were of particular concern to the local community. The package of proposed highway improvements, travel and freight management plans would address all

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<sup>239</sup> *The Secretary of State for Communities and Local Government & Others v Redhill Aerodrome Ltd* [2014] EWCA Civ 1386

the transport related issues. Bearing in mind the location of the site close to AQMAs the slight adverse effect on air quality has a small amount of weight. The harm to residential amenity would be limited by the separation distance between the site and homes and additional safeguards would be applied through planning conditions. Nevertheless the local community would experience disruption and inconvenience through the construction period and, when operational, ongoing vigilance would be necessary to ensure effective management and monitoring of undertakings and plans. In an area that experiences continued development pressures, the harmful social effect and erosion of quality of life merits a small degree of weight.

- 12.192 The potential harms to biodiversity and water quality and the probable increase in flood risk are able to be overcome by elements of scheme design and the use of planning conditions. No significant harm has been identified from the cumulative effects of developments proposed in the area. Accordingly, in terms of weight, these considerations are neutral.
- 12.193 In sum, the weight against the development is very strong and compelling.
- 12.194 In terms of the 'other considerations', the most important is the potential contribution to building up a network of SRFIs in the London and South East region, reducing the unmet need and delivering national policy objectives. There is the prospect of SIFE being complementary to Radlett and other smaller SRFI developments and improving the geographical spread of these facilities round Greater London. In this context, the contribution to meeting unmet need is considerable.
- 12.195 SIFE would comply with the transport and location requirements for SRFIs to an overall very good standard. The site requirements are about making sure a SRFI functions and delivers on objectives and to that extent compliance does not attract a lot of weight. However, sites suitable for SRFIs are scarce and there is an acknowledged particular challenge in finding sites in the London and South East region. On account of this factor, and the standard of compliance achieved, meeting the site selection criteria has significant weight.
- 12.196 No less harmful alternative site has been identified in the West London market area, a factor which has considerable weight.
- 12.197 The remaining considerations attract less weight. The economic benefits, the reduction in carbon emissions and improvements to water quality each have some weight. The LGIS and the use of Green Belt land have no weight.
- 12.198 I conclude that the potential harm to the Green Belt by reason of inappropriateness and the other harms identified are not clearly outweighed by the other considerations. Consequentially very special circumstances do not exist to justify the development. The development is contrary to Core Policy 1 of the CS and national policy in the Framework. The proposal does not have the support of the NPS because the Appellant has not demonstrated very special circumstances.

### *Strategic Gap*

12.199 Core Policy 2 imposes an additional policy restraint – development will only be permitted in the Strategic Gap and the open areas of the Colne Valley Park if it is essential to be in that location. Clearly account must be taken of the compelling need for an expanded network of SRFIs expressed in the NPS and the absence of an identified alternative site to SIFE to locate a SRFI on the west side of London. The importance of the role of a network in achieving the forecast growth in rail freight has been demonstrated. Nevertheless I am not convinced that the SIFE scheme is essential within the Strategic Gap, when account is taken of the complementary SRFIs that have been identified and which probably will be developed to serve the region. SIFE is not in the category of a nationally significant infrastructure project. There are limits on the benefits achievable in terms of carbon emissions and the amount of freight transported by rail. For these reasons the additional policy test is not met and the development is contrary to Core Policy 2.

### *Conclusion: the development plan*

12.200 In terms of the 'non-policy' criteria, a regional need for the development has been demonstrated, there are no unacceptable environmental impacts in relation to air quality, noise, flood risk, landscape character and biodiversity and the facility may be accommodated on the road and rail network. A high level of rail use is not guaranteed but is probable. Importantly, however, there are not the very special circumstances sufficient to overcome Green Belt and other strategic planning objections. The spatial strategy is at the heart of the development plan for Slough and therefore the balance is against the development.

### *Conclusion: the Framework and sustainable development*

12.201 To achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The economic gains would be derived from the contribution to meeting the changing needs of the logistics sector, development of the rail freight industry and the economic and employment benefits for Slough and the surrounding area. Whilst providing land to support growth, the development would be contrary to the spatial strategy for Slough.

12.202 The social benefits also would be related to the provision of a range of jobs, the introduction of an employment scheme and enabling the development to be easily accessible to all by improvements to public transport, pedestrian and cycling facilities. Nevertheless the Parish Councils, the community and resident groups were not supportive of the development. The unwelcome changes to their local environment would include the generation of additional traffic per se, the loss of open space on their doorstep and the introduction of a large distribution development, however well designed, into the setting of their villages. The urbanisation of the Colne Valley Park and loss of amenity for its users would not be fully offset by the LGIS and off-site improvements.

12.203 The significant environmental gains locally would consist of improvement to water quality and the prospect of increased biodiversity. The facilitation of modal shift from road to rail in freight transport and the development's 'very good' rating under the BREEAM standard would assist in



adapting to climate change and the move to a low carbon economy. The loss of a highly protected area of the Green Belt and the irreparable harm to the Green Belt east of Slough has to count as a major environmental loss.

- 12.204 The balance of the potential economic, social and environmental consequences leads me to conclude that the proposal is not a sustainable form of development. Therefore to allow the development would be contrary to national policy in the Framework.

## **Conclusion**

- 12.205 The Inspector in the LIFE appeal stated that the central matter in dispute is “where to strike the balance between conflicting policies relating to green belt and to sustainable transport”.<sup>240</sup> Since 2001 the Green Belt to the east of Slough has been put under greater development pressure and its protection is a fundamental objective of the spatial strategy expressed in the development plan. The Framework has confirmed the great importance of Green Belts and encourages the provision of viable infrastructure to promote sustainable transport. National policy on SRFIs has evolved, culminating in the designation of the NPS and the stated compelling need to develop a network of SRFIs across the country. The central issue has not changed.

- 12.206 I have been persuaded by the irreparable harm that would be caused to this very sensitive part of the Green Belt in the Colnbrook area, leading to the high level of weight I have attached to this consideration. The benefits of the scheme do not clearly overcome the harm. Planning conditions would not be able to overcome the fundamental harms caused to the Green Belt, Strategic Gap and Colne Valley Park and the open environment enjoyed by the local community. However, weight is a matter for the decision maker. In the event the Appellant’s case is found to be compelling, there is much to commend in the outline proposals and there is the basis for a very well designed scheme. Outstanding details and appropriate mitigation would be able to be secured by planning conditions (Appendix 1) and planning obligations.

## **13. RECOMMENDATIONS**

- 13.1 I recommend that the appeal be dismissed.
- 13.2 In the event the Secretary of State should disagree with this recommendation, then I further recommend that any planning permission granted should be subject to the planning conditions set out in Appendix 1 to this report.

*Diane Lewis*

Inspector

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<sup>240</sup> CD6.1 paragraph 13.19

## **APPENDIX 1: SCHEDULE OF PLANNING CONDITIONS**

- 1) Application for the approval of the details of the layout, scale, appearance and landscaping (hereinafter called the 'reserved matters') shall be made to the local planning authority not later than the expiration of three years from the date of this permission.
- 2) The development hereby permitted must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 3) The development and the details of reserved matters shall be in accordance with the principles and parameters stated and shown on:
  - a) Indicative Master Plan 8544-00-MP05AF
  - b) Parameter plans P016B, P017, P019, P020, P021, P022
  - c) Landscape Overview 3697\_LS\_01 REV F
  - d) Landscape Masterplan 3697\_LS\_03 REV G
- 4) No development shall commence until a scheme for the provision and management of a buffer zone alongside Colne Brook has been submitted to and approved in writing by the local planning authority. The scheme shall include details of:
  - a) the extent and layout of the buffer zone;
  - b) the planting scheme for the buffer zone;
  - c) any footpaths, fencing and lighting;
  - d) means of protection for the buffer zone during the development works;
  - e) a programme of maintenance and management.Development shall be carried out in accordance with the approved scheme.
- 5) No development shall commence until the details of the rail infrastructure have been submitted to and approved in writing by the local planning authority. The details required to be submitted shall include details of the above ground structures including plant within the intermodal area, hardstandings, rail track formation, weighbridge, refuelling area, maintenance facilities and external storage areas. No part of the rail track shall be within 7.5 metres of any part of the fence marking the boundary of the M4 motorway. Development shall be carried out in accordance with the approved scheme.
- 6) No development shall commence until a scheme to deal with the risks associated with the contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include the following components:
  - a) A preliminary risk assessment which has identified all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; potentially unacceptable risks arising from the contamination of the site.

- b) A site investigation scheme based on (a) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- c) The results of the site investigation and detailed risk assessment referred to in (b) above and based on those results an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- d) A verification plan (i) providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy referred to in (c) above are complete, and (ii) identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- e) A timetable for implementation.

The remediation strategy and verification plan shall be carried out in accordance with the approved timetable for implementation.

- 7) If during development contamination not previously identified is found to be present at the site no further development shall be carried out until a remediation strategy to deal with the unsuspected contamination has been submitted to and approved in writing by the local planning authority. The remediation strategy shall be carried out as approved before any part of the development is occupied.
- 8) No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall set out the methods of managing environmental issues for all involved with the construction works and shall include:
  - a) A broad plan of the phasing of the development works, which shall take full account of the need to avoid any disturbance to birds using Old Slade Lake, Orlits Lake and Colnbrook West.
  - b) Details of arrangements and areas to be used for the parking of vehicles of the site personnel, operatives and visitors during the construction period.
  - c) Details of areas to be used for the storage of plant and building materials during the construction period.
  - d) Details of the position(s) of stockpiles of excavated materials and confirmation of a 5 metre height limit on all stockpiles of excavated materials.
  - e) Details of all temporary buildings and compound areas, including the arrangements for their removal following the completion of the site works.
  - f) Details of temporary lighting arrangements.
  - g) A scheme for the routing of construction vehicles accessing the site, including measures to be taken by way of penalties if construction vehicles do not observe the identified routes.
  - h) Details of mitigation measures relating to junction capacity during the peak construction time period (0900 to 1000 hours) pursuant to the monitoring required by Schedule 9 of the section 106 agreement dated 7 October 2015.

- i) Details of measures to ensure that construction vehicles do not deposit mud on the public highway.
- j) Details of all works involving interference with the public highway, including temporary carriageway/footpath closures, realignment and diversion.
- k) Details of construction earthworks methodology.
- l) Detailed methodologies and monitoring requirements to prevent adverse effects on the water environment, including best practice working methods to prevent silts, suspended solids, oil and petrol/diesel spills affecting watercourses and surrounding habitats, methods to prevent spread if occurrences of spillage occur and measures to ensure there shall be no pumping of water from excavations into any watercourses.
- m) Details of methods to be used to control dust, noise and vibration from the site (including hours of work) and any monitoring protocols that may be necessary during the works.
- n) Details of any construction operations likely to result in disturbance and / or working hours outside the core working period, with an indication of the expected duration of key phases and dates.
- o) Details of provisions for reporting complaints, contact and public liaison. In particular a liaison group (to include representatives from the developer, contractor(s), Slough Borough Council, Colnbrook with Poyle Parish Council, Iver Parish Council and Colne Valley Park CIC) shall be established to provide a forum for the exchange of information and to address impacts on amenity during the construction phase. Arrangements shall be made for the liaison group to meet at intervals throughout the course of site development.

The construction of the development, the mitigation measures and the community liaison shall be carried out in accordance with the approved CEMP throughout the construction period.

- 9) No development shall commence until details and timings of auguring, piling or any foundation designs using penetrative methods have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) No development shall commence until:
  - i. A report on and findings of an updated ecological survey have been submitted to the local planning authority. The submitted details shall include:
    - The location of any protected species (reptiles, invertebrates, nesting and migrating birds);
    - A bat survey, which shall be carried out by a suitably qualified and experienced ecologist before the removal of any of the trees listed for removal in the Environmental Statement Addendum dated April 2015. If bats are found roosting in any of the trees, details of the next steps to be taken shall be included in the submitted report.
  - ii. A mitigation strategy for protected species and bats has been submitted and approved in writing by the local planning authority. The mitigation strategy shall include and provide for:

- Reptile translocation, in accordance with the procedures specified in paragraph 12.156 of the Environmental Statement Addendum dated April 2015;
- Removal of all vegetation outside the breeding season for birds. Any vegetation required to be removed during the breeding season (March to September) shall be checked by an experienced ecologist for the presence of active nests and if nests are found, measures identified to protect the breeding birds and fledglings.
- Translocation of grassland to maintain genetic diversity (including timing, monitoring and aftercare).
- A timetable for implementation.

Development shall be carried out in accordance with the approved mitigation strategy.

- 11) No development shall commence until an ecological management plan has been submitted to and approved in writing by the local planning authority. The ecological management plan shall include provisions for:
- a) Old Slade Lake Wildlife Heritage Site
    - All trains operating along the sidings adjacent to Old Slade Lake shall be lubricated with automatic flange lubricators and braking squeal controlled through speed limiting.
    - A five year monitoring plan to assess the use of the Colnbrook Gravel Pit Complex by wintering birds, using the same methodology as employed in FPCR's SPA Species Survey Report (Appendix A12.8 of the Environmental Statement) and also noting any disturbance events. Data from the surveys shall be fed into the management plan and necessary actions implemented.
  - b) Old Wood. Measures to restore Old Wood to Local Wildlife Site quality, including measures:
    - To address the issues of scrambler bikes, fly tipping (including of non native invasive plants) and any recreational activities that could damage the habitats and/or species.
    - To upgrade footpaths in a manner sensitive to the woodland character.
    - To retain a 15 metre buffer zone to protect the woodland from ground and root damage and disturbance.
  - c) Other habitats and species. Long term management and monitoring to ensure that the populations of UK BAP species (invertebrates, reptiles, birds) and habitats created (including proposed wetland, marshland and meadows) are conserved and wherever possible enhanced.

The ecological management plan shall be carried out as approved.

- 12) No development shall commence until details of an effective, continuous and robust bird hazard control system has been submitted to and approved in writing by the local planning authority. The system shall be implemented at all times in accordance with the approved details.
- 13) No development shall commence until details of the footways, cycleways and equestrian routes within the area covered by the Landscape Overview Drawing 3697\_LS\_01 REV F, including the Colne Valley Trail, have been submitted to and approved in writing by the local planning authority. The details shall include:

- a) proposed layout and ground levels;
- b) surface treatments;
- c) design and location of signage;
- d) crossings of internal rail corridors.

The scheme shall be carried out in accordance with the approved details before the first occupation of the development.

- 14) No development shall commence until details of a Sustainable Drainage Scheme have been submitted to and approved in writing by the local planning authority. The scheme shall incorporate details of foul and surface water drainage, an assessment of the hydrological and hydrogeological context of the development, consideration of previous activities and risk of contamination, information about the design storm period and intensity, the method to delay and control the surface water discharged from the site, the measures taken to prevent pollution of the receiving groundwater and/or surface waters, a timetable for implementation and a management and maintenance plan. The Sustainable Drainage Scheme shall be implemented in accordance with the approved details and timetable.
- 15) No development shall commence until a scheme for flood prevention measures, in accordance with the Flood Risk Assessment August 2010 and the associated addendums, has been submitted to and approved in writing by the local planning authority. The following mitigation measures shall be included in the scheme:
- Limitation on the surface water run-off generated by the 1 in 100 year plus climate change critical storm in order that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
  - Provision of compensatory flood storage on/or in the vicinity of the site to a 1 in 100 year plus climate change standard.
  - All structures over the watercourse(s) shall be designed with a soffit level of at least 600 mm above the 1 in 100 year plus climate change flood event and abutments shall be set back at least 1 metre from the top of the bank of the watercourse(s).
  - Any walls or fencing constructed within or around the site shall be designed to be permeable to flood water.

The flood prevention measures shall be carried out in accordance with the approved plan prior to first occupation of the development.

- 16) No development shall commence until details of the establishment of a community liaison group have been submitted to and approved in writing by the local planning authority. The composition of the liaison group shall provide for the representation of Colnbrook with Poyle Parish Council, Iver Parish Council and Colne Valley Park CIC. The liaison group shall be operated in accordance with the approved details for the lifetime of the development.
- 17) No development shall commence until a scheme for controlling and monitoring noise during the operation of the development (the scheme) has been submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with BS 4142:2014 'Methods

for rating and assessing industrial and commercial sound' and shall include details of:

- a) noise monitoring locations, frequency of measurements, procedure for reporting of results to the local planning authority;
- b) the 3 metre high noise barriers proposed to be located at the south east and south west corners of Plot A (as specified in paragraphs 9.110 and 9.111 of Chapter 9 of the Environmental Statement Addendum dated April 2015);
- c) remedial measures to be adopted in the event noise levels exceed the following requirements:

All fixed plant and machinery shall be silenced and/or enclosed and the resulting noise rating level (as defined in BS 4142:2014) shall be restricted to 10db or more below the pre-development mean minimum background noise level (expressed as LA90, 15 minutes) at the following locations in Colnbrook:

- Baseline survey site 2 at the junction of Mill Street with McArdle Way: LA90, 15 minutes free field day/night 50/43 dB;
- Baseline survey site 3, at the end of cul-de-sac Vicarage Way: LA90, 15 minutes free field day/night 45/37 dB.

The rating level of noise from operations in the open air including the intermodal area defined on Drawing P019 shall be restricted to 3 dB or more below the pre-development mean minimum ambient noise levels at the following locations in Colnbrook:

- Baseline survey site 2 at the junction of Mill Street with McArdle Way: LAeq, 15 minutes free field day/night 60/49 dB;
- Baseline survey site 3, at end of cul-de-sac Vicarage Way: LAeq, 15 minutes free field day/night 60/42 dB.

- d) Procedures for dealing with complaints from local residents.

The approved scheme shall commence on first occupation of the development and the development shall be operated in accordance with the approved scheme at all times thereafter.

- 18) No development shall commence until details of the number, layout, location, phasing of provision and management of vehicle parking spaces have been submitted to and approved in writing by the local planning authority. Car parking spaces shall be provided to a standard of not more than 1 space per 200 sq m of floor space for each distribution unit, up to a maximum of 974 car parking spaces in total. The vehicle parking shall be provided in accordance with the approved details and phasing programme before the first occupation of the building(s). Thereafter all the vehicle parking spaces shall be retained and used only for the parking of vehicles. No vehicles shall be permitted to park (other than in designated parking spaces) on the side of or adjacent to the on-site circulation roads so as to obstruct such roads unless in the case of emergency or breakdown and in such circumstances the vehicle(s) shall be removed to a designated parking area as soon as practicable.

- 19) Details of cycle parking shall be submitted to and approved in writing by the local planning authority and no distribution unit shall be occupied until the cycle parking for that unit has been provided in accordance with the approved details. Thereafter the cycle parking shall be retained as approved.
- 20) No development shall commence until: an archaeological impact assessment has been undertaken that takes into account the spreads, densities and depths of various impacts within areas of archaeological potential and proposed protective buffer margins to such areas, and the impact assessment has been submitted to and approved in writing by the local planning authority. Unless the archaeological impact assessment demonstrates no impacts shall occur, a written scheme of investigation for archaeological evaluation and an appropriate programme of mitigation shall be submitted to and approved in writing by the local planning authority. The scheme and programme of archaeological work shall be carried out in accordance with the approved timetable and details.
- 21) No removal of trees and hedgerows shall take place as part of site preparation works until a photographic survey of two historically important hedgerows, as identified as HEA 1g and HEA 1h in the Environmental Statement and the Addendum dated April 2015, has been completed and the photographic survey has been submitted to the local planning authority.
- 22) The total floor space contained in each distribution building shall not exceed the limits specified on the Parameter Plan P021, that is Unit A 55,190 sq m GEA; Unit B 67,023 sq m GEA; Unit C 72,623 sq m GEA. Notwithstanding the provisions of Schedule 2 Part 7 Class H of the Town and Country Planning (General Permitted Development) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) at no time shall the floor space of any unit be increased above the limit specified in this condition by the insertion of mezzanine floors or the carrying out of alterations or extensions.
- 23) The maximum height of the buildings on the site shall not exceed 18.3 metres (as measured to ridge height) and any roof top plant, equipment or apparatus shall not exceed the maximum height hereby permitted.
- 24) No distribution building shall be subdivided into units of less than 50,000 sq metres of floor space.
- 25) Notwithstanding the provisions of Schedule 2 Part 7 Class H of the Town and Country Planning (General Permitted Development) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) no new industrial or warehouse building shall be erected on the site.
- 26) Notwithstanding the provisions of article 3 and Class B8 of Part B of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument



revoking and re-enacting that Order with or without modification) no distribution unit or any sub-divided part of a distribution unit shall be occupied by a person or company wholly or mainly engaged in the business of transporting or arranging the receipt or forwarding of goods by air.

- 27) Notwithstanding the provisions of Schedule 2 Part 3 Classes I and P of the Town and Country Planning (General Permitted Development) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) the distribution units hereby permitted shall be used for Class B8 storage or distribution and for no other purpose. The maximum ancillary office content of each of the distribution units hereby permitted shall not exceed 15% of the gross internal floor area of the building.
- 28) The railway sidings alongside Units B and C shall be used only for collections and deliveries by rail. There shall be no loading or unloading involving HGVs in the aforesaid railway sidings area except for maintenance or emergency purposes.
- 29) Containers stored in the intermodal terminal area shall not exceed a height of three stacked containers or 10 metres above finished ground levels, whichever is the greater. No freight containers shall be stored on any part of the site outside the intermodal terminal area.
- 30) The landscaping scheme, submitted to comply with condition 1 above, shall be carried out in accordance with the programme of implementation approved as part of the reserved matters. If within a period of five years of completion of the planting scheme, any tree or shrub is removed, uprooted, destroyed or dies or becomes seriously damaged or diseased, another tree or shrub of the same species and size as that originally planted shall be planted at the same place as a replacement.
- 31) Before the first occupation of the development, details of refuse storage and recycling facilities, including a programme for their provision, shall be submitted to and approved in writing by the local planning authority. The facilities shall be provided in accordance with the approved details and timetable and shall be maintained at all times thereafter.
- 32) No occupation of the development shall take place until a scheme for external lighting of the development has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the type and siting of the lighting, provide for a lux level of 0 to 2 within 8 metres of the top of bank of the watercourses and a programme of implementation. The scheme shall be carried out in accordance with the approved details and timetable and shall be maintained at all times thereafter.
- 33) Before the first occupation of the development a scheme for the operation of HGV reversing alarms between 2300 hours and 0700 hours shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of broadband (white noise) type reversing alarms and a programme for their use or in the alternative confirmation

that this type of alarms shall be turned off during this time period. The scheme shall be carried out and maintained thereafter in accordance with the approved details.

- 34) No occupation of the development shall take place until a verification report, demonstrating completion of the approved remediation strategy and the effectiveness of the remediation, has been submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan, as well as a long term monitoring and maintenance plan for monitoring of pollutant linkages, arrangements for contingency action and arrangements for the reporting of results to the local planning authority. The long term monitoring and maintenance plan, and any necessary contingency action, shall be carried out in accordance with the approved details.
- 35) On completion of the monitoring programme required by condition 34 above, a final report demonstrating that all long term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.
- 36) All surface water from areas likely to receive a petrol/oil contaminant, including vehicle and circulation areas, any diesel fill-up area and hardstandings with impermeable surfaces, shall be passed through petrol oil/grit interceptor(s) prior to being discharged to any on-site foul drainage system.
- 37) Any oil, fuel lubricant and other potential pollutants shall be handled on the site in such a manner as to prevent pollution of any watercourse or soil. For any liquid other than water this shall include storage in suitable tanks and containers which shall be housed in an area surrounded by bund walls of sufficient height and construction so as to contain 110% of the total contents of all containers and associated pipe work. The floor and walls of the bunded areas shall be impervious to both oil and water and the pipes shall vent downwards into the bund.
- 38) No amplified public address systems, sound systems or loudspeakers shall be used at the site at any time.

End of Schedule

## APPENDIX 2: APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Richard Ground of Counsel	Instructed by the Solicitor to Slough Borough Council
He called	
Mr Paul Stimpson BSc(Hons) DipTP MRTPI	Planning Policy Lead Officer, Slough Borough Council

### FOR THE APPELLANT:

Mr Christopher Katkowski QC and Mr Guy Williams of Counsel who called	Instructed by Wragge Lawrence Graham & Co LLP
Mr Tim Jackson BA(Hons) DipLA CMLI	Director of FPCR Environment and Design Ltd
Mr Simon Flisher MA(Hons) MRTPI AEMA	Director in Barton Willmore LLP
Mr Michael Hatfield BSc MSc	Senior Consultant with MDS Transmodal Ltd
Mr Simon Ives FRICS	Head of Property for DB Schenker Rail (UK) Ltd
Mr Jason Harris BSc(Hons) Dip Surv ACMA CGMA	Commercial Director at Goodman UK Logistics
Mr Simon Ward BSc MRICS	Managing Director of Propernomics Ltd
Mr Nigel Downes BSc CEng MICE MCIHT MCM	Head of Transportation South Fairhurst

### FOR THE RULE 6 PARTY:

Mr David Forsdick QC

### INTERESTED PERSONS:

Mr C Burke	Colnbrook Community Association
Mr G Young	Richings Park Residents Association
Mr A McIlwaine	Stop SIFE
Mrs Carol Gibson	Iver Parish Council
Mr Michael Nye	Director, Colne Valley Park CIC
Councillor Dexter Smith BSc Econ	Colnbrook with Poyle Parish Council

**APPENDIX 3: DOCUMENTS**

<b>CD1</b>	<b>PLANNING APPLICATION DOCUMENTATION</b>
	Original Planning Application Documentation (submitted 27 September 2010)
CD1.1	Covering letter and planning application forms, including completed certificate of ownership and agricultural land declaration
CD1.2	Site location plan (Drawing 8544-00-P014B)
CD1.3	Illustrative layout plan (Drawing 8544-00-MP05AA)
CD1.4	Parameter Plan Access and Movement (Drawing P016A)
CD1.5	Parameter Plan Landscaping: Existing and Proposed Watercourses, Lakes and Drainage Ponds (Drawing P017)
CD1.6	Parameter Plan Use: Rail and Intermodal Area (Drawing P019)
CD1.7	Parameter Plan Scale: Building Plots, Positions and Heights (Drawing P020)
CD1.8	Parameter Plan Amount: Development Zones and Floor Space by Use Type (Drawing P021)
CD1.9	Parameter Plan Landscaping: Overview (Drawing P022)
CD1.10	Landscape Overview plan (Drawing 3697_LS_01 REV E)
CD1.11	Landscape Strategy plan (Drawing 3697_LS_02 REV F)
CD1.12	Landscape Masterplan (Drawing 3697_LS_03 REV F)
CD1.13	Design and Access Statement
CD1.14	Planning Statement
CD1.15	Need Case and Site Operation Report
CD1.16	Assessment of Alternative Sites
CD1.17	Energy and BREEAM Assessment
CD1.18	Environmental Statement – Main Text
CD1.19	Environmental Statement – Technical Appendices
CD1.20	Flood Risk Assessment (Environmental Statement Technical Appendix)
CD1.21	Transport Assessment (including two volumes of bound appendices) (Environmental Statement Technical Appendix)
CD1.21	Land Contamination and Ground Conditions Assessment (Environmental Statement Technical Appendix)
CD1.22	Landscape and Green Infrastructure Strategy (Environmental Statement Technical Appendix)
CD1.24	Environmental Statement – Non Technical Summary
CD1.25	Statement of Community Involvement
	<b>Additional Planning Application Documentation (submitted 15 February 2011)</b>
CD1.26	Summary of freight path capacity of the GWML, in both the 'with Crossrail' and 'without Crossrail' scenarios
CD1.27	SIFE – Rail network capacity on the Great Western Main Line
	<b>Additional Planning Application Documentation (submitted 15 February 2011)</b>
CD1.28	Revised site location plan (Drawing 8544-00-P014C)
CD1.29	Revised Access and Movement Parameters Plan (Drawing P016B)
CD1.30	Revised Illustrative layout plan (Drawing 8944-00-MP05AF)
CD1.31	Environmental Statement Addendum
CD1.32	Transport Assessment Addendum (Environmental Statement Addendum Technical Appendix)
CD1.33	Revised Landscape and Green Infrastructure Strategy (Environmental Statement Addendum Technical Appendix), incorporating a revised Landscape Overview plan (Drawing 3697_LS_01 REV F) and a revised Landscape Masterplan (Drawing

	3697_LS_03 REV G)
	<b>Additional Planning Application Documentation (submitted on and after 25 July 2011)</b>
CD1.34	Addendum to Assessment of Alternative Sites
CD1.35	Commentary on the approach taken to the question of alternative sites within the application documentation (Response to representations by Helioslough Ltd)
CD1.36	Summary of conclusions of the EIA with respect to the noise generated by train movements of the Colnbrook Branch Line
	<b>Additional Relevant Correspondence</b>
CD1.37	Response to review of air quality assessment by Cambridge Environmental Research Consultants (CERC) on behalf of Slough Borough Council (submitted by the appellant to Slough Borough Council 21 March 2011)
CD1.38	Commentary on the consistency of data between the air quality assessment and Slough Borough Council's 2010 air quality progress report (submitted by the appellant to Slough Borough Council 25 July 2011)
CD1.39	Commentary on the interrelationship of the Brands Hill Air Quality Management Area and the air quality assessment (submitted by the appellant to Slough Borough Council 29 July 2011)
CD1.40	Graphical representation of analysis contained within the air quality assessment (submitted by the appellant to Slough Borough Council 10 August 2011)
CD1.41	Strategic Road Network Highways Works Phasing Assessment
CD1.42	Freight Management Plan
	<b>Additional Planning Application Documentation (submitted 28 April 2015)</b>
CD1.43	Environmental Statement Addendum – Main Text and Figures
CD1.44	Environmental Statement Addendum – Technical Appendices
CD1.45	Environmental Statement Addendum – Non Technical Summary
<b>CD2</b>	<b>DOCUMENTS ASSOCIATED WITH THE PLANNING APPLICATION</b>
CD2.1	Officer's Report to Planning Committee 8 September 2011 Agenda Item 7
CD2.2	Supplementary Officer's Report to Planning Committee 8 September 2011
CD2.3	Minutes of Planning Committee 8 September 2011
CD2.4	Decision Notice issued by Slough Borough Council dated 8 September 2011 (P14961/000)
<b>CD3</b>	<b>NATIONAL PLANNING POLICY</b>
CD3.1	National Planning Policy Framework (March 2012)
CD3.2	Strategic Rail Freight Interchange Policy Guidance (November 2011)
CD3.3	Logistics Growth Review (November 2011)
CD3.4	Ministerial Statement: Strategic Rail Freight Interchange (29 November 2011)
CD3.5	Planning Policy Guidance Note 2: Green Belts (January 1995, amended March 2001)
CD3.6	National Policy Statement for National Networks (January 2015)
<b>CD4</b>	<b>REGIONAL PLANNING POLICY</b>
CD4.1	South East Plan – Regional Spatial Strategy for the South East of

	England (May 2009)
CD4.2	South East Plan Examination in Public – Report of the Panel (August 2007)
CD4.3	The London Plan – Spatial Development Strategy for Greater London (July 2011)
CD4.4	Land for Transport Functions – the London Plan Supplementary Planning Guidance (March 2007)
CD4.5	Land for Industry and Transport – Draft Supplementary Planning Guidance (February 2012)
CD4.6	East of England Plan - The revision to the Regional Spatial Strategy for the East of England (May 2008)
CD4.7	The London Plan – Spatial Development Strategy for Greater London Consolidated with Alterations since 2011 (March 2015)
CD4.8	Land for Industry and Transport – London Plan Supplementary Planning Guidance (September 2012)
<b>CD5</b>	<b>LOCAL PLANNING POLICY</b>
CD5.1	The Local Plan for Slough (March 2004) saved policies
CD5.2	Inspector's Report on the Examination into the Slough Core Strategy (22 August 2008)
CD5.3	Slough Core Strategy 2006-2026 (Adopted December 2008)
CD5.4	Inspector's Report on the Examination into the Slough Site Allocations Development Plan Document (31 August 2010)
CD5.5	Slough Site Allocations Development Plan Document (adopted November 2010) extracts
CD5.6	Slough Local Development Framework Proposals Map
CD5.7	Slough Borough Council report to Planning Committee 25 July 2013
<b>CD6</b>	<b>APPEAL DECISIONS/HIGH COURT JUDGMENTS/OTHER PROPOSALS</b>
CD6.1	London International Freight Exchange, Inspector's Report dated 27 April 2001 (Appeal ref. APP/J0350/A/99/1028567)
CD6.2	London International Freight Exchange, Secretary of State's decision letter dated 20 August 2002 (Appeal ref. APP/J0350/A/99/1028567)
CD6.3	Howbury Park Rail Freight Interchange, Inspector's Report dated 24 September 2007 (Appeal ref. APP/T2215/A/05/1185897)
CD6.4	Howbury Park Rail Freight Interchange, Secretary of State's decision letter dated 20 December 2007 (Appeal ref. APP/T2215/A/05/1185897)
CD6.5	North Orbital Road, Upper Colne Valley, Radlett, Inspector's Report dated 19 March 2010 (Appeal ref. APP/B1930/A/09/2109433)
CD6.6	North Orbital Road, Upper Colne Valley, Radlett, Secretary of State's decision letter dated 7 July 2010 (Appeal ref. APP/B1930/A/09/2109433)
CD6.7	North Orbital Road, Upper Colne Valley, Radlett Secretary of State's decision letter dated 14 July 2014 (Appeal ref. APP/B1930/A/09/2109433)
CD6.8	<i>Helioslough Limited v Secretary of State for Communities and Local Government and another</i> [2011] EWHC 2054 Admin
CD6.9	Kent International Gateway Rail Freight Interchange, Maidstone Inspector's Report dated 31 March 2010 (Appeal ref. APP/U2235/A/09/2096565)
CD6.10	Kent International Gateway Rail Freight Interchange, Maidstone, Secretary of State's decision letter dated 5 August 2010 (Appeal ref. APP/U2235/A/09/2096565)

CD6.11	Airports Commission Final Report (July 2015)
CD6.12	M4 Junctions 3 to 12 Smart Motorway Environmental Statement Non Technical Summary (March 2015)
CD6.13	Western Rail Link to Heathrow Environmental Impact Assessment Scoping Report (Extract) April 2015
CD6.14	High Speed Rail (London to West Midlands) Supplementary Environmental Statement and Additional Provision 2 Environmental Statement Non Technical Summary (Extract) July 2015
<b>CD7</b>	<b>STATEMENTS OF COMMON GROUND</b>
CD7.1	Statement of Common Ground between the Appellant and Slough Borough Council August 2012
CD7.2	Updated Statement of Common Ground between the Appellant and Slough Borough Council June 2015
CD7.3	Highways Statement of Common Ground between the Appellant and Slough Borough Council August 2015
CD7.4	Air Quality Statement of Common Ground between the Appellant and Slough Borough Council June 2015
CD7.5	Rail Statement of Common Ground between the Appellant and Slough Borough Council August 2012
CD7.6	Updated Rail Statement of Common Ground between the Appellant and Slough Borough Council June 2015
CD7.7	Planning Conditions Statement of Common Ground June 2015
CD7.8	Statement of Common Ground between the Appellant and Network Rail June 2015
CD7.9	Statement of Common Ground between the Appellant and Helioslough Ltd August 2015
<b>CD8</b>	<b>DOCUMENTS ASSOCIATED WITH THE SIFE INQUIRY</b>
CD8.1	Planning Inspectorate email 31 July 2012 regarding Transport Assessment and Appellant's response dated 2 August 2012
<b>CD9</b>	<b>THIRD PARTY CORRESPONDENCE</b>
CD9.1	Planning application representations (previously provided by Slough Borough Council with the appeal questionnaire)
CD9.2	Planning application representations submitted to the Planning Inspectorate following the submission of the appeal in 2012
CD9.3	Additional representations submitted to the Planning Inspectorate in response to further consultation in May 2015
	<b>PROOFS OF EVIDENCE</b>
	<b>Slough Borough Council</b>
	<b>Paul Stimpson</b>
SBC/02	Proof of evidence
SBC/03	Appendices 1 to 45 (2 volumes)
SBC/04	Amendments to proof of evidence and appendices
	<b>Goodman Logistics Development (UK) Ltd</b>
	<b>Simon Flisher</b>
GLD/3/A	Summary proof of evidence
GLD/3/B	Proof of evidence
GLD/3/C	Appendices 1 to 47 (3 volumes)
GLD/3/D	Rebuttal proof
	<b>Tim Jackson</b>

GLD/4/A	Summary proof of evidence
GLD/4/B	Proof of evidence
GLD/4/C	Appendices
GLD/4/D	Rebuttal proof of evidence
	<b>Michael Hatfield</b>
GLD/5/A	Summary proof of evidence
GLD/5/B	Proof of evidence
GLD/5/C	Appendices 1 to 6
GLD/5/D	Rebuttal proof of evidence
	<b>Simon Ward</b>
GLD/6/A	Summary proof of evidence
GLD/6/B	Proof of evidence
GLD/6/C	Appendices 1 to 20 (2 volumes)
GLD/6/D	Rebuttal proof of evidence
	<b>Jason Harris</b>
GLD/7/A	Summary proof of evidence
GLD/7/B	Proof of evidence
GLD/7/C	Appendices 1 to 7
GLD/7/D	Rebuttal proof of evidence
	<b>Simon Ives</b>
GLD/8/A	Summary proof of evidence
GLD/8/B	Proof of evidence
	<b>Nigel Downes</b>
GLD/9/A	Summary proof of evidence
GLD/9/B	Proof of evidence
GLD/9/C	Appendices 1 to 10
	<b>STATEMENT RULE 6 PARTY</b>
HS/01	Written statement on planning policy on behalf of Helioslough Ltd August 2015
	<b>STATEMENTS INTERESTED PARTIES</b>
CIC/1	Evidence of Michael Nye (Director) on behalf of The Colne Valley Park Community Interest Company
IPC/1	Submission from Iver Parish Council
CCA/1	Submissions by Colnbrook Community Association
RPRA/1	Submissions from Richings Park Residents' Association
SS/1	Submissions from Stop SIFE
	<b>INQUIRY DOCUMENTS</b>
	Submitted by Slough Borough Council
SBC/IQ/1	Planning Practice Guidance: Housing and economic land availability (extract)
SBC/IQ/2	Biffa site final restoration plan ref P3/1073/9/4
SBC/IQ/3	DHL warehouse and distribution facility Poyle 14 planning statement, planning permission and plans
SBC/IQ/4	<i>St Albans City and District Council v Secretary of State for Communities and Local Government and Others</i> [2015] EWHC 655 Admin
SBC/IQ/5	Government Policy Statement: Green Belt Protection and Intentional Unauthorised Development 31 August 2015
SBC/IQ/6	National Networks National Policy Statement: Government Response to Public Consultation December 2014



SBC/IQ/7	<i>South Northamptonshire Council v Secretary of State for Communities and Local Government and Barwood Homes Ltd</i> [2014] EWHC 570 Admin
SBC/IQ/8	Barton Willmore letter dated 28.09.2012 Appeals by Helioslough Ltd and Goodman Logistics Development (UK) Ltd
SBC/IQ/9	St Albans City and District Council letter dated 16.04.2012 re Appeal by Helioslough Ltd (APP/B1930/A/09/2109433)
SBC/IQ/10	Addition to Appendix 8 to Mr Stimpson's proof
SBC/IQ/11	SBC Note on land holding
SBC/IQ/12	Land Registry Plan Title number BK425811
SBC/IQ/13	Plan showing unregistered land parcels
SBC/IQ/14	Deleted text from draft s106 agreement which the Council wishes to reinstate
SBC/IQ/15	Closing submissions on behalf of the local planning authority
SBC/IQ/16	<i>Cheshire East BC v Secretary of State for Communities and Local Government</i> [2015] EWHC 410 Admin
	Submitted by <b>Goodman Logistics Development (UK) Ltd</b>
GLD/IQ/1	Response to Inspector's Questions: Policy and General
GLD/IQ/2	Response to Inspector's Questions: Highways Statement of Common Ground
GLD/IQ/3	Response to Inspector's Questions: Planning Conditions
GLD/IQ/4	Updated schedule of draft planning conditions 5 September 2015
GLD/IQ/5	Response to Inspector's Questions: ES Addendum
GLD/IQ/6	Table 16.1 Summary of Mitigation and Monitoring Measures
GLD/IQ/7	Barton Willmore letter to the Planning Inspectorate dated 16 April 2015
GLD/IQ/8	Plans of proposed access arrangements to site and off site highway works
GLD/IQ/9	Masterplan identifying railway infrastructure
GLD/IQ/10	CD1.15 Appendix 3 Plans
GLD/IQ/11	Section 106 agreement draft
GLD/IQ/12	Section 106 agreement with tracked changes
GLD/IQ/13	<i>Cherkely Campaign Ltd v Mole Valley District Council &amp; Anor</i> [2014] EWCA Civ 567
GLD/IQ/14	Summary of section 106 obligations
GLD/IQ/15	Opening submissions on behalf of the Appellant
GLD/IQ/16	Evidence in chief speaking notes: Michael Hatfield
GLD/IQ/17	Rail freight: Figure and Photographs
GLD/IQ/18	Technical Note Western Route Study Final Version
GLD/IQ/19	The Western Corridor Industrial and Warehouse Market Report Autumn 2015 Jones Lang Laselle
GLD/IQ/20	Evidence in chief speaking note: Simon Ward
GLD/IQ/21	Expanded Table paragraph 2.3.5 of Rebuttal of Mr Ward
GLD/IQ/22	Property overviews
GLD/IQ/23	Employment densities at SIFE
GLD/IQ/24	Set of routing drawings
GLD/IQ/25	Highway constraints
GLD/IQ/26	Substitute Plan off site highway works (see GLD/IQ/8)
GLD/IQ/27	Response to Inspector's comments on planning conditions
GLD/IQ/28	Updated schedule of draft planning conditions 21 September 2015
GLD/IQ/29	Amended draft section 106 agreement (submitted 22 September 2015)
GLD/IQ/30	Travel Plan Guidance and Checklist
GLD/IQ/31	Transport and Highway Guidance Interim Document November

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	2008
GLD/IQ/32	Land ownership plan Title Number BK347813
GLD/IQ/33	Amended draft section 106 agreement (submitted 22 September 2015)
GLD/IQ/34	Appellant's closing submissions
	Submitted by the Council and the Appellant
GEN/IQ/1	CIL compliance statement and appendix
	Submitted by Helioslough
HS/IQ/1	Helioslough's response to Inspector's questions
	Submitted by Interested Parties
REP/IQ/1	Representation by Heathrow dated 7 September 2015
REP/IQ/2	Evidence Statement by Colnbrook with Poyle Parish Council September 2015
REP/IQ/3	Representation by Colnbrook Community Association
REP/IQ/4	Representation by Colne Valley Park CIC re planning conditions
REP/IQ/5	Representation by Iver Parish Council re planning conditions
	<b>Section 106 agreement</b>
PO/SBC	Certified copy dated 7 October 2015 submitted by the Council
PO/GLD	Certified copy dated 7 October 2015 submitted by the Appellant



## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS**

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### **SECTION 3: AWARDS OF COSTS**

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### **SECTION 4: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.