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FOR THE WEST MIDLANDS

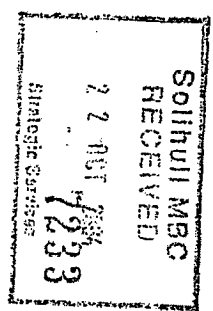
Mr Paul Watson  
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Date: 21 October 2004



Dear Mr Watson

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78  
TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND)  
RULES 2000  
APPEAL BY:  
BLUE BOAR MOTORWAYS LTD/EXEC. OF SIR JOHN GOOCH  
MOTORWAY SERVICE AREAS (MSAs) - BETWEEN JUNCTION 3a AND  
JUNCTION 6 OF THE M42, SOLIHULL, WEST MIDLANDS**

I refer to the decision of 6 March 2001 by the Secretary of State which indicated that he was minded to approve the development of a motorway service area on the M42 at Catherine de Barnes. The decision not only addressed the Catherine de Barnes proposal, but also dismissed two other separate proposals for motorway service area schemes at Junction 5 and Junction 4 of the M42.

The letter of 6 March 2001 explained that, on the basis of all the evidence before him, the Secretary of State was minded to grant outline planning permission for an MSA at Catherine de Earnes subject to:

- i. appropriate conditions;
- ii. the execution of a signed agreement under section 278 of the Highways Act 1980, between the appellant and the Highways Agency and the completion of any additional procedures required under the Highways Act 1980 necessary to enable the Highways Agency to reach a final decision on whether the auxiliary lanes should be constructed;
- iii. consideration of the views of the parties on the omission of the use of Walford Hall Farmhouse as a training centre from any planning permission granted;



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- IV. consideration of the views of English Heritage and of any further representations received in respect of the impact of the proposed **MSA** on the setting of the listed building; and
- V. the entering into of a new Deed of Planning Obligation by Undertaking which binds all the owners of the land and off-site land in respect of each obligation in the Deed.

The position since the interim decision letter was issued is as follows:

**Omission of the use of Walford Hall Farmhouse as a training centre from any planning permission granted.**

A number of parties, including English Heritage, have expressed views on the omission of the use of Walford Hall Farmhouse as a training centre from any planning permission granted and on the impact of the proposed **MSA** on the setting of the listed building, and those representations were copied to the parties to the Inquiry under cover of letters dated 10 April 2001, 10 May 2001 and 15 June 2001. It should be noted that Matthews and Goodman have requested that their letters of 3 April and 1 May 2001, setting out representations on behalf of Swayfields Limited, be withdrawn from the consideration of the Secretary of State and have explained that Swayfields Limited no longer object to the proposed development of a motorway service area at Catherine de Barnes.

**New Deed of Planning Obligation by Undertaking**

A new developer, Roadchef CdB Limited, has replaced the original developer (Blue Boar Motorway Services Limited), and the owners of the application site and the off-site land have now entered into a new Deed of Planning Obligation by Undertaking which binds all the owners of the land and off-site land in respect of each obligation in the Deed. This new Deed sets out revised obligations in respect of Walford Hall Farmhouse and these are dealt with below.

**Highways issues**

The Highways Agency have now reported to the Secretary of State that they have assessed the auxiliary lanes proposed as part of the Catherine de Barnes scheme in respect of highway safety, buildability and environmental implications. They explain that the level of detail undertaken has enabled them to accept the principle of the auxiliary lanes. In respect of the execution of an agreement under section 278 of the Highways Act, the Highways Agency have commented that this is a financial agreement between the developer and the Secretary of State for Transport to pay for improvements to the road network and that it is inappropriate to execute such an agreement before planning permission has been granted. A copy of the Highways Agency letter of 11 August 2004 is attached for the information of the parties.



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All of this information is currently being considered by the Secretary of State. At the same time he has responsibility to take into account any new circumstances that may have arisen since the interim decision letter was issued. Having regard to the passage of time which has elapsed since the appeal was considered at inquiry and on the basis of which he issued an interim decision letter, the Secretary of State is of the view that there are a number of matters on which he wishes to be further informed before coming to a final determination. In particular he wishes to invite views on the extent to which the Government's White Paper, "The Future of Air Transport", which was issued in December 2003, is relevant before he proceeds further.

**Air Transport White Paper**

The Air Transport White Paper sets out a strategic framework for the development of airport capacity in the United Kingdom over the next 30 years. In respect of the Midlands, the White Paper concludes that there is a need for additional runway capacity in the Midlands to meet future growth in passenger demand and that this need would best be met by an additional runway at Birmingham International Airport (BIA). The White Paper explained that of the various options proposed for an additional runway at BIA, the Government expressed a preference for the wide-spaced runway option (the 'Birmingham Alternative') proposed by BIA and a map describing this indicatively is included in it.

To take forward the strategic framework in the White Paper, BIA, in common with a number of other major airports, is required to prepare a Master Plan setting out their specific proposals. The Master Plan will inform the regional and local planning processes, facilitate engagement with a wide range of stakeholders, identify the long-term land requirements and any consequential revisions to safety surfaces and Public Safety Zones (within which there is a general presumption against new or replacement development) so that relevant areas within and outside the airport boundary can be shown on an updated safeguarding map and notified to the appropriate local planning authority. The Department for Transport expects airports to have produced a full master plan or, where is in impracticable, an outline master plan, by the end of this year followed by fuller versions by the end of 2005.

One of the core areas to be addressed by Master Plans is surface access and on BIA the White Paper explains that road access to the airport and future capacity requirements on the M42 between Junctions 3 and 7 will also need to be reviewed. This review will need to ensure that there is adequate capacity for both background and airport traffic growth on this key section of motorway. It will also need to address the complexities associated with designing an acceptable widening scheme for the M42 and new airport access arrangements from the motorway, should these prove necessary. The White paper is clear that these will need to be considered alongside other factors such as the pressures of other potential developments along side this corridor and the results of the Advanced Traffic Management scheme currently being piloted by the Highways Agency.



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The Secretary of State accepts that, in the absence of the detailed proposals to be set out in the Master Plan process, the impact of the proposed MSA on BIA's expansion plans are not clear. He also recognises that, while the White Paper advises that land outside existing airports that is needed for future expansion will need to be protected against incompatible development, such land is only formally protected once it is either reflected in the local development plan or when planning permission is granted for the airport development. Nevertheless, given the location of the MSA application site relative to both the existing boundary of BIA and the possible new airport boundary indicated in the White Paper, the Secretary of State considers that it would be inappropriate to reach a decision on whether or not to grant planning permission for the MSA development without first seeking the views of the inquiry parties on the extent to which the proposals for an MSA at Catherine de Barnes may conflict with expansion proposals at BIA in line with the White Paper and whether they should be regarded as prejudicial to the completion of the Master Planning process of BIA and consequently the implementation of Government policy.

BIA was not a party to the Inquiry in 1999/2000; nevertheless it has made representations on the proposal for an MSA development at Catherine de Barnes, and in the light of the issues raised by the White Paper, the Secretary of State considers that it is appropriate for him to invite their views on this matter.

**West Midlands Regional Planning Guidance**

Regional Planning Guidance for the West Midlands (RPG) was published on 15 June 2004. Following commencement of the Planning and Compulsory Purchase Act, RPG becomes the Regional Spatial Strategy. Policy T11 Airports recognises that BIA will continue to be developed as the West Midlands' principal international airport and development plans in Solihull and neighbouring authorities should include policies to provide for the assessment of proposals for the expansion of the airport to meet the demand. However the policy

was written under previous national policies and does not reflect the Air Transport White Paper which was published in December 2003. RPG recognises that further work is required on Airports policy and it will need to be reviewed together with any other relevant aspects of the Spatial Strategy in the light of the BIA master planning exercise.

**The Proposed Auxiliary Lanes**

The Secretary of State notes that in a letter dated 20 September 2004 a representation has been made by CPRE Warwickshire Branch. This raises issues on the Air Transport White Paper, which are dealt with above, but also raises concerns that, during the course of completing the additional Highways Act procedures, the auxiliary lanes scheme has been revised and is therefore no longer in accordance with that put forward at the public inquiry and may have additional environmental impacts to those considered at the public inquiry. The CPRE also raise concerns on the adequacy of the Environmental Assessment prepared as part of the additional Highways Act procedures and on the impact of the M42 Active Traffic Management Project. The Highways Agency in their letter of 11 August 2004



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do not advise that there have been revisions to the auxiliary lanes schemes from that discussed at the public inquiry or that the environmental assessment has been found to be inadequate or that the Active Traffic Management Project would cause them to question the principle of the proposals. Nevertheless, the Secretary of State invites any further views on the matter as part of this reference back and in particular he invites the further views of the Highways Agency.

**Listed Building Issues**

In his interim decision letter of 6 March 2001, the Secretary of State expressed his concern about the impact of an MSA development on Walford Hall Farmhouse, a fifteenth century Grade II\* listed building and he agreed with the Inspector that alterations necessary for the change of use to a training centre would have a detrimental impact on the character of the listed building. The Secretary of State agreed with the Inspector that the best option in considering the future of a listed building is the reinstatement of the use for which the building was originally designed and he noted the Inspector's conclusions that he was not convinced that the best option for the building, namely a restitution of residential use, was not economically viable. The Secretary of State was minded to exclude the proposal for use of Walford Hall Farmhouse as a training centre from any planning permission granted and he sought the views of the parties to the inquiry on this issue.

Since the interim decision letter was issued, the new developers have advised the Secretary of State that they have agreed works with Solihull Metropolitan Borough Council and English Heritage which would facilitate the re-use of Walford Hall Farmhouse and its outbuildings for residential use and that the new Deed of Planning Obligation by Undertaking requires that these works are completed prior to the MSA opening to the public. While the Secretary of State notes that Solihull Metropolitan Borough Council and English Heritage have been consulted on this, it does not appear that the other parties to the inquiry have.

The Secretary of State considers that the proposals for the re-use of Walford Hall Farmhouse are new circumstances, which, in the interests of natural justice, all parties to the inquiry should have the opportunity to comment on and therefore enclosed with this letter is a copy of the new Deed of Planning Obligation by Undertaking together with a copy of a letter of 27 August 2004 from the new developer's representative. The Secretary of State is aware of a letter dated 6 September 2004 from English Heritage which indicates that they have no further comments to make on the revised proposals for Walford Hall Farmhouse. Nevertheless the Secretary of State considers it appropriate to invite them to submit any views they wish to express to him as part of his further considerations of the planning application.



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**Proposed Draft Conditions**

The Secretary of State notes that following his interim decision letter of 6 March 2001, representations have been made raising concerns that final draft Conditions 23 and 27 attached to that letter, which effectively allow 465 square metres of net retail floor space in the amenity building and a fuel sales building of 360 square metres, may conflict with the Government's MSA Policy Statement (July 1998), which restricts a shop or shops catering for those using the motorway to a total floor area not exceeding 5000 square feet (464.5 square metres approx). Those representations were set out in letters of 2 April 2001 from Solihull Metropolitan Borough Council and 28 April 2001 from CPRE Warwickshire Branch and have already been copied to the parties to the inquiry. The Secretary of State notes that the draft conditions were discussed at the public inquiry and fully considered by the Inspector. Nevertheless, the Secretary of State considers it appropriate to invite any further views on this point as part of his further considerations of this application.

The Secretary of State is of the view that the above matters are relevant to his final decision and may be such as to cause him to reach a different view from that of his Inspector and from those expressed in his interim decision letter of 6 March 2001. Therefore in accordance with rule 17(5) of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, the Secretary of State is required to afford persons entitled to appear at the inquiry who appeared at it an opportunity of making written representations to him. Further representations are therefore invited on the following:

- i. the extent to which the proposals for an MSA at Catherine de Barnes may conflict with expansion proposals at Birmingham International Airport in line with the Government White Paper "The Future of Air Transport" and/or may prejudice a future review of airport policy in the Regional Spatial Strategy, as published in Regional Planning Guidance for the West Midlands;
- ii. whether the appeal proposals should be regarded as prejudicial to the completion of the Master Planning process of Birmingham International Airport;
- iii. the revised proposals for the re-use of Walford Hall Farmhouse and its outbuildings for residential use;
- iv. the extent to which any changes to the auxiliary lanes proposal made during the course of completing the additional Highways Act procedures or necessitated by the Active Traffic Management project and any additional environmental impact which may result, materially changes the proposal as considered at the original inquiry; and
- v. The extent to which draft conditions 23 and 27 are in accordance with the Government's MSA Policy Statement of July 1998 that shops or shops



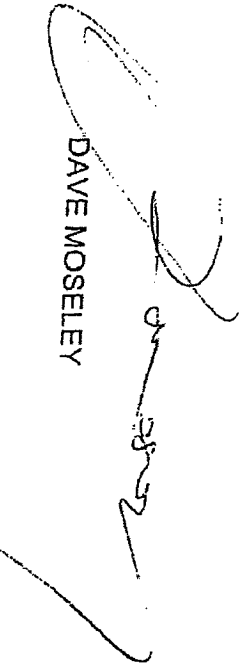
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catering for those using the motorway should have a total floor area not exceeding 5000 square feet (464.5 square metres approx).

You are now afforded the opportunity of submitting written representations in respect of the above matters to this Government Office. Alternatively, you may ask for the inquiry to be re-opened. In accordance with Rule 17(6), those persons making written representations or requesting the inquiry to be re-opened shall ensure that such representations or requests are received within three weeks of the date of this letter. In deciding whether the inquiry should be re-opened, the Secretary of State will consider your views, and any other views which may be expressed to him on this matter. In accordance with his power under rule 17(7), the Secretary of State has discretion to re-open the inquiry even if not so requested by the parties and he shall do so if asked by the applicant or the local planning authority in the circumstances mentioned in rule 17(5) and within the three week period mentioned in rule 17(6).

A similar letter is being sent to the appellant's agent and copied to other persons entitled to appear at the inquiry who appeared at it and to other interested persons. Any replies received may be copied to the other parties for comment.

Yours sincerely

  
DAVE MOSELEY