

## **APPEAL A**

**Appeal by Blue Boar Motorways/Exec of Sir John Gooch**

**Reference APP/Q4625/A/98/1013084**

Site: Land adjacent to the M42 motorway at Catherine de Barnes.  
Proposal: Application for outline planning permission for an MSA.  
Council: Solihull Metropolitan Borough Council

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## **APPEAL B**

**Appeal by Shirley Estates (Development) Ltd**

**Reference APP/Q4625/A/06/1199380**

Site: Land at Junction 4 of the M42, Stratford Road, Solihull.  
Proposal: Application for outline planning permission for an MSA.  
Council: Solihull Metropolitan Borough Council

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## **NOTES OF 2<sup>nd</sup> PRE-INQUIRY MEETING**

held on Monday 11 September 2006, at 2.00 pm, in the Council Chamber, Civic Suite, Solihull.

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## **INTRODUCTION**

1. The Inspector confirmed that he had received correspondence confirming that Swayfields Ltd had been authorised by Blue Boar Motorways to pursue the appeal relating to the Catherine de Barnes site. He also confirmed that the inquiry into the appeal relating to a revised proposal for a development of an MSA on a site at Junction 4 of the M42 (the Shirley Estates proposal) would be conjoined with the re-opened inquiry into the Catherine de Barnes proposal.

## **PARTICIPANTS AT PIM**

2. The participants at the 2<sup>nd</sup> PIM are listed at the Appendix to this note. The CPRE (Warwickshire Branch) and English Heritage were not represented.

## **RULE 6 PARTIES**

3. The Inspector confirmed that the list of main parties and identified Rule 6 parties is as follows:

Blue Boar/Swayfields (Appellants Appeal A)  
Shirley Estates (Developments) Ltd (Appellants Appeal B)  
Solihull MBC (LPA)  
Highways Agency  
English Heritage  
Birmingham International Airport (BIA)  
CPRE (Warwickshire Branch)  
SAMSAG  
Welcome Break  
Hockley Heath Parish Council

4. All the above parties had submitted Rule 6 statements in respect of both appeals,

except as follows:

- English Heritage and BIA had submitted statements only in relation to the appeal proposal at Catherine de Barnes;
- Hockley Heath Parish Council had submitted a statement solely in relation to the Shirley Estates proposal at J4; and,
- CPRE had failed to submit any Rule 6 statement.

5. The Inspector indicated that he intended to give the CPRE a further 14 days to provide a Rule 6 statement, and if it failed to provide any such statement he would consider removing CPRE's Rule 6 status. (Note: after closing the PIM, the Inspector was handed a letter sent by post from CPRE, which confirmed that CPRE had been unable to attend the 2<sup>nd</sup> PIM. The letter was accompanied by copies of a Rule 6 statement in relation to both appeals. The CPRE's status as a Rule 6 party is therefore retained).

6. For Blue Boar Motorways, Mr Phillips indicated that he understood that English Heritage (EH) was unlikely to take part in the inquiry but would rely on its written representations. In response, Mr Crean, for Shirley Estates, pointed out that in his opinion EH may well change its mind and decide to take part in the inquiry.

7. Mr Stephen Hill confirmed that BIA was objecting only to the proposal at Catherine de Barnes and therefore BIA's Rule 6 statement related only to that appeal.

## **PROGRAMME OFFICER**

8. Solihull MBC intends to appoint Mr John Banbery as the programme officer for the inquiry. Details of his telephone number, postal and e-mail address were not available at the PIM. However, Solihull MBC has subsequently and helpfully indicated that, subject to his formal appointment, the points of contact for Mr Banbery are likely to be:

*John Banbery  
c/o Solihull Council  
P.O.Box 18  
Council House  
Solihull  
B91 9QS.*

*EMAIL - [ibanbery@solihull.gov.uk](mailto:ibanbery@solihull.gov.uk)  
Tel - 0121-704 2366.*

9. If appointed, Mr Banbery will work under the direction of the Inspector and will be responsible for preparing the lists of documents, including core documents, and an inquiry library. He will also coordinate arrangements and adjustments for the inquiry programme where necessary.

## **UPDATE ON POSITION OF BIA AND HA IN RELATION TO APPEALS**

10. Mr Hill indicated that he had no further information regarding the publication of the Airport Master Plan. The consultation process in respect of the Draft Master Plan had been completed earlier in the year. Although the draft plan indicated that the final version would

be produced by the end of this year, that will not now be the case, partly because of the need to take account of the outcome of the White Paper review and the decision on the appeal relating to proposals at Coventry Airport. Nevertheless, Mr Hill was hopeful that an agreed position could be reached between Blue Boar and BIA regarding issues relating to Aerodrome Safeguarding and Public Safety Zones. However, the outcome on the issue of surface access is more difficult to predict. Consultants have been appointed jointly by BIA, the HA and the National Exhibition Centre to undertake a study of surface access and prepare a report on this matter. Mr Phillips was under the impression that this report would be available early next year. However, neither BIA nor the HA were able to indicate when the report is due to be completed or whether it will be made publicly available.

11. Mr Crean pointed out that Shirley Estates had appointed an independent expert on aerodrome safeguarding and public safety and that he was available to meet representatives of any party, particularly BIA to discuss the topic. Mr Hill indicated that BIA were happy to meet representatives of Shirley Estates if they wished to do so.

12. Mr Goatley confirmed that the HA's position on the appeals was unchanged. In principle it had no objection to the proposals, but it had concerns which remain unresolved and therefore it was objecting to both sets of proposals. However, discussions were on-going with both appellants. In relation to the proposal at Catherine de Barnes it would be necessary to ensure that the scheme satisfactorily integrated with traffic management arrangements which are now in place, whereas further details are necessary to assess the revised proposal at J4.

13. Mr Phillips was concerned about the slow progress of discussions between BlueBoar/Swayfields and the HA. However, although the HA's rule 6 statement indicates that there is potential for conflict he is convinced that there is also potential for agreement which should be explored. Blue Boar would like to see more precise details regarding the concerns of the HA, but Mr Phillips indicated that he was optimistic that a suitable scheme could be devised in relation to the Catherine de Barnes proposal that would be acceptable to the HA. He therefore considered that it would be inappropriate to proceed to inquiry at present.

#### **REQUEST TO DELAY COMMENCEMENT OF INQUIRY**

14. Mr Phillips requested that the opening of the inquiry be adjourned for about 6 months from the presently proposed commencement date of 28 November 2006. He considered the request to be justified because of

(i) the potential for agreement, given time for meaningful discussion, between Blue Boar and the HA on highway matters

(ii) Potential for agreement or at least common ground with BIA on Aerodrome Safety and Public Safety Zones. Moreover, the inquiry should not proceed until the Surface Access Report is available or at least has been received by BIA and HA

(ii) there are problems of availability of Counsel early in the new year amongst the various parties.

15. Mr Phillips considered that these matters are likely to give rise to the need for a long adjournment which would not be desirable. It would be preferable to delay the opening of the inquiry for 6 months.

16. Mr Crean, for Shirley Estates, supported the proposal to delay the opening of the inquiry, as did Ms Sharif for the Council, particularly if it enabled common ground to be reached between the parties. Although the HA was prepared to commence in November, it had no objection to delaying the start of the inquiry. All parties present either agreed with the suggestion to delay the inquiry or had no objection to such a delay.

17. The Inspector was concerned about the time that had elapsed since the applications were originally submitted and felt that any delay in opening the inquiry must be justified by meaningful discussions taking place between the parties in an effort to find common ground. He was concerned that any further unproductive delays would reflect badly on the planning regime in general, although he supported measures that could result in differences being resolved or common ground being achieved that would help to reduce inquiry time and make the process more efficient. He did not want to see the inquiry being delayed for another 6 months and the parties no further advanced in their discussions at the end of that period. However, under the circumstances the Inspector agreed that the inquiry should be postponed and requested that the parties inform PINS within 14 days of the availability of Counsel around May 2007. Although a mutually acceptable date for the commencement of the inquiry would be sought it was acknowledged that PINS may need to force a commencement date if agreement could not be reached.

18. The Inspector pointed out that he would not be available to hold the inquiry next year and a replacement lead Inspector would therefore have to be appointed.

19. As the inquiry opening date had already been advertised, it was suggested that the inquiry be opened on 28 November and then adjourned to a suitable date. However, as Mr Goatley pointed out, complications could arise if a new Inspector was appointed after that date and there could also be problems in imposing a meaningful timetable for the submission of proofs of evidence. It was therefore agreed that it would be preferable to delay the opening of the inquiry. When the new date for the inquiry opening is determined, it will be necessary for the Council to advertise the postponement of the inquiry and the new opening date.

20 Mr Phillips submitted that the PIMs had proved useful, not least in bringing the parties together. He suggested that a further PIM be held at the end of November to review progress, ensure that meaningful discussions were progressing and reassess the timetable for the inquiry. This suggestion was supported by all parties and it was agreed that the next PIM should be held at 2.00 pm on Monday 27 November 2006 in the Council Chamber at Solihull.

## **DOCUMENTATION**

21. Mr Crean indicated that a Supplementary Environmental Statement in relation to the Shirley Estates proposal at J4 would be available in about 2 weeks.

22. With regard to written representations, the Inspector noted that some items had been returned after the expiry of the normal time for submission. However, he confirmed that arrangements had now been made to extend the deadline for written submissions until 8 weeks before the originally intended opening of the inquiry (i.e. 3 October 2006), as agreed

at the last PIM. This deadline will now need to be further extended to enable written submissions to be accepted until 8 weeks before the revised commencement date of the inquiry.

## **SITE INSPECTIONS**

23. Mr Hill pointed out that security arrangements necessitate that any visit to the airport will need to be programmed well in advance.

## **ISSUES RELATING TO THE SHIRLEY ESTATES APPEAL (J4)**

24 The Inspector indicated that from his initial reading of the submissions made to date, the issues to be addressed in relation to the Shirley Estates proposal at J4 are:

- i. The extent to which the proposed development is consistent with Regional Spatial Strategy (RSS) for the West Midlands and the adopted Solihull UDP;
- ii. The extent to which the proposed development would conflict with national policies, as set out in the White Paper 'The Future of Air Transport' in relation to the development of BIA;
- iii. The extent to which the proposal would prejudice the review of Airports Policies in the RSS;
- iv. The extent to which the proposal would prejudice the completion of the Master Plan for BIA;
- v. An assessment of the consistency of the proposed development with policies set out in the 1998 MSA Policy Statement;
- vi. Whether the proposal is consistent with paragraph 3.30 of PPS6 (Planning for Town Centres) in respect of the retail element of the proposal;
- vii. Whether the Environmental Statement is adequate for the purposes of giving proper consideration to any likely significant environmental effect of the proposed development ;
- viii. The impact of the scheme on the safety and free flow of traffic on the local road network and the M42 motorway.
- ix. Whether the scheme would be inappropriate development in the Green Belt, and if so whether there are very special circumstances that outweigh the harm be reason of inappropriateness and any other harm.
- x. Whether the scheme would cause unacceptable light pollution
- xi. Whether the scheme would cause unacceptable air pollution.
- xii. The impact of the scheme on the countryside, the openness of the green belt and the purposes of including land in the green belt.

25. Although BIA was not objecting to the proposal at J4, issues relating to the impact of the scheme on Airports Policy and the Master Plan for BIA had been raised by other parties and were matters which the appellant wished to address.

M P Hill

Inspector  
14 September 2006

## APPENDIX

### APPEALS BY BLUE BOAR MOTORWAYS LTD/EXEC SIR JOHN BARNES and SHIRLEY ESTATES (DEVELOPMENT) LTD

#### PARTIES THAT TOOK PART IN THE 2<sup>nd</sup> PRE-INQUIRY MEETING ON 11 SEPTEMBER 2006

1. Appellant (Appeal A):  
(Blue Boar/Exec Sir John Gooch) Represented at PIM by Mr Richard Phillips QC, assisted by Mr Neil Hunter of Counsel and instructed by Mr David Goodman of Hammonds, 2 Park Lane, Leeds LS3 1ES
2. Appellant (Appeal B):  
(Shirley Estates (Development) Ltd) Represented at PIM by Mr Anthony Crean QC instructed by Davis Planning Partnership, 17a Post House Wynd, Darlington, Co. Durham DL3 7LP
3. Solihull MBC: Represented at PIM by Ms Nadia Sharif of Counsel. The Council is to be represented at the inquiry by Mr Martin Kingston QC, assisted by Ms Sharif.
4. Highways Agency Represented at PIM by Mr Peter Goatley of Counsel instructed by Treasury Solicitor.
5. Birmingham International Airport Represented at PIM by Mr Stephen Hill (Head of Planning and Transportation BIA Ltd) Diamond House, Birmingham B26 3QJ)
6. Welcome Break Group Ltd Represented at PIM by Mr N Jenkins of Hephher Dixon Ltd, 23 Furzton Lake, Shirwell Crescent, Furzton, Milton Keynes MK4 1GA
7. SAMSAG  
(Solihull Against Motorway Service Areas Group) Represented at PIM by Mr G R Goodall FRTPI, Ms Throup and M D Glanfield, Chairman of Dorridge and District Residents Association. SAMSAG address c/o, Ms M Throup, Bardon Lodge, Bardon Drive, Solihull B90 3DA.
8. Hockley Heath Parish Council Represented at PIM by Mr S Williamson, Stansgate Planning Consultants, Conrad House, Birmingham Road, Stratford-on-Avon CV37 0AA.