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30 July 2002

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 77)
APPLICATIONS BY LONDON BOROUGH OF ENFIELD
APPLICATION NOS: 96/0024 AND EPF/1277/96**

1. I am directed by the First Secretary of State to say that consideration has been given to the report of the Inspector, Mr P R Burden BSc, CEng, MICE, who held a public local inquiry into the applications by the Council of the London Borough of Enfield for planning permission for the construction of a new road, including a new junction on Mollison Avenue, eastwards to Epping Forest District Council, including the provision of cycle and footway facilities, car park and accesses. On 16th December 1998, the Secretary of State directed in pursuance of section 77 of the Town and Country Planning Act 1990 that the applications be referred to him instead of being dealt with by the local planning authorities London Borough of Enfield and Epping Forest District Council.

2. The Inspector, whose conclusions are reproduced in the annex to this letter, recommended that planning permission be refused. A copy of his report is enclosed.

Procedural matters

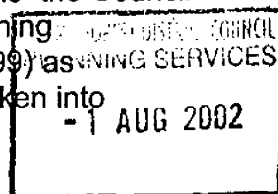
3. The Secretary of State notes that other matters considered at the inquiry were a Side Roads Order, a Bridge Order, a Compulsory Purchase Order and a Notice of Intention to issue a certificate under Section 19(1)(a). However, this letter relates only to the called-in applications, the other matters being the subject of a separate letter.

4. The Secretary of State also notes that in support of their applications the Council submitted an Environmental Statement under the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 (SI 1998 No 1199) as amended. This has been taken into consideration by the Inspector and taken into



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account by the Secretary of State in reaching his decision on the applications.

Matters arising following the public inquiry

5. After the inquiry had closed, the Department received a number of further representations, which were not forwarded to the Inspector. The names of the correspondents are recorded at Annex B. Their correspondence has been taken into account by the Secretary of State determining these applications, but is not considered to raise any matters requiring wider reference back to the inquiry parties, either under Rule 17 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, or in the interests of natural justice, prior to making his decision. Copies of this correspondence are not attached to this letter but can be made available upon written request to the above address.

Policy Considerations

6. Section 54A of the Town and Country Planning Act 1990 requires that proposals shall be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the Secretary of State notes that the majority of the scheme lies within the London Borough of Enfield, but that part of its length falls within the area administered by Epping Forest District Council and Essex County Council. Therefore, the development plan consists of the Enfield Unitary Development Plan 1994 and the Essex and Southend on Sea Replacement Structure Plan 2001, and the Epping Forest District Local Plan 1998. The Secretary of State considers that the policies of greatest relevance to the applications are those identified by the Inspector in paragraphs 2.31-2.49 of his report.

7. Material considerations are Planning Policy Guidance note 2: "*Green Belts*", Planning Policy Guidance note 13: "*Transport*", The Lee Valley Park Plan, Regional Planning Guidance 3: "*London*", Regional Planning Guidance 9: "*The South East*", the Mayor's Transport Strategy and the London Development Agency's Economic Development Strategy. At the time of the inquiry "Towards the London Plan", the Mayor's Initial Proposals Document had been published. Since the inquiry closed the draft London Plan has been issued by the Greater London Authority for formal consultation. There is to be a statutory three month consultation period, following which the responses and the Mayor's views concerning those responses will be considered by a Government appointed Panel, reporting to the Mayor, who will organise an Examination in Public. Accordingly, as formal consultation has only recently commenced, the Secretary of State takes the view that the policies in the Plan, including those for the Upper Lee Valley, can be given little weight and do not affect his decision on the applications.

Main Issues

8. In the introduction to his report the Inspector has set out the matters on which the Secretary of State wished to be informed when the applications were called in, namely,

- The relationship of the proposed development to the relevant policies and provisions of the development plan;
- The effect of the proposal on the Metropolitan Green Belt;
- The effect of the proposed road on traffic generation and car use, in the area where the road is proposed and over the wider area;

- Whether the proposed public transport and traffic control measures would be effective in reducing use of the car in the locality and more generally;
- The appropriateness of the proposal having regard to transport planning guidance in PPG13
- Having regard to the planning condition limiting the development of Phase 2 of the Innova Park scheme, whether access to Innova Park can be achieved by means other than the construction of the proposed road; and
- Whether harm to the Metropolitan Green Belt, nature conservation in the Lee Valley, and the wider environment, by reason of the construction of the proposed road and its likely effects, is outweighed by the contribution the proposal would make to the broader development strategy for the Lee Valley and towards achievement of other Government policies.

The Secretary of State considers that these are the main issues in this case but, for ease of reference, has considered them in the order adopted by the Inspector who has examined firstly the transport issues.

Transport issues

9. The Secretary of State notes that, in reaching a view on the acceptability of the new road proposal, the Council have relied on the EEHBTS 1999 traffic model. However, he notes that at the inquiry, a number of anomalies were identified in the model, and that explanations of these were either not provided or failed to convince the Inspector. Furthermore, he notes the Highways Agency's concerns over the adequacy of the traffic model in assessing the operation of Junction 26 on the M25 with the Northern Gateway Access Road (NGAR) [IR 13.75–13.78]. He agrees with the Inspector, therefore, for the reasons he has given in paragraphs 13.2–13.7 of his report, that it is doubtful as to whether the model results should be relied upon as giving an adequate representation of the likely changes in traffic flows if the road scheme was built [IR 13.7].

Effects on traffic generation and car use

10. The Secretary of State accepts that the scheme would provide relief to some parts of the local road network. However, like the Inspector, he is doubtful whether the level of induced traffic from the scheme would be as low as suggested by the London Borough of Enfield in their appraisal, bearing in mind that the proposed road would serve as a new river crossing [IR 13.10]. With regard to the effect of the proposal on other parts of the road network, the Secretary of State accepts the Inspector's conclusions in paragraphs 13.75–13.80 of his report.

The effectiveness of the proposed public transport and traffic control measures

11. The Secretary of State notes that the Council are promoting the new scheme as part of a package of measures aimed at developing an integrated approach to transport, to include traffic restraint measures and public transport enhancements [IR 13.11]. He observes the Inspector's concerns (IR 13.14) as to precisely what is proposed and the level of certainty about implementation. As noted by the Inspector in IR 13.14–15, there are doubts about the funding contribution from Transport for London. With regard to the

public transport measures, the Secretary of State agrees with the Inspector, for the reasons he gives in IR 13.16-13.19 that a number of the measures put forward are not firm proposals, are dependent upon other bodies and are not specified in sufficient detail to be the subject of conditions. He has concluded, therefore that, for these reasons, the package of proposal put forward in support of the scheme can be given only limited weight.

PPG13: Transport

12. As noted by the Inspector in IR 13.21-13.23, there are elements of the scheme that would comply with the PPG in terms of its locational preferences and the benefits for pedestrians and cyclists of a new river crossing. However, the Secretary of State shares the Inspector's view that the new scheme would be used mainly by private car and commercial vehicles. Therefore, he agrees with the Inspector, for the reasons that he has given in paragraph 13.24 of his report, that the degree by which the scheme can be regarded as compatible with PPG13 depends on the certainty and extent of the traffic restraint and public transport enhancements measures proposed. However, as discussed above, in view of the uncertainties about these measures and their implementation, the Secretary of State cannot be satisfied that the NGAR is appropriate in PPG13 terms [IR 13.110].

Access to Innova Park

13. The Secretary of State notes the applicant's view that the new road scheme will be necessary before Phase III of Innova Park can be released. However, for the reasons given in paragraphs 13.27-13.29 of the Inspector's report, the Secretary of State is not satisfied that the proposed road is a necessary precondition for the release of Phase III of Innova Park.

PPG2: Green Belts

14. The Secretary of State agrees with the Inspector that the proposal would be inappropriate development in the Green Belt [IR 13.37]. Inappropriate development is, by definition, harmful to the Green Belt. Accordingly, the Secretary of State has considered whether there are very special circumstances that outweigh the inappropriateness, and any other harm.

15. On the question of harm, the Secretary of State considers that this development would have some damaging impact on the openness of the Green Belt and that it would conflict with the key purposes of the Green Belt, in particular preventing towns from merging, and safeguarding the countryside from encroachment. The Secretary of State accepts that the proposal may accord partly with the fifth Green Belt purpose, in that the proposal is to assist regeneration generally. However, he considers that this would not override the proposal's conflict with the fundamental aim of Green Belt policy, of keeping land permanently open [IR 13.38]. At the same time, however, the Secretary of State agrees with the Inspector, for the reasons he gives in paragraph 13.39 of his report, that the degree of harm caused by the proposal is not so severe that it could not be outweighed by a clearly made out and cogent case for it which could be regarded as very special circumstances capable of outweighing the harm to the Green Belt.

16. However, whilst the Secretary of State recognises that the scheme could potentially assist in the regeneration of the area [IR 13.30-13.34], he agrees with the Inspector for the reasons he has given in paragraph 13.35 of his report, that the scheme would not

appear to be an essential prerequisite for the area to continue to attract new development. Therefore, like the Inspector, the Secretary of State is not convinced that the case made out for the scheme amounts to the very special circumstances necessary to justify accepting the harm that it would cause to the Green Belt [IR 13.106].

Other environmental impacts

17. With regard to the likely impact of the proposal on the nature conservation of the Rammey Marsh, the Secretary of State considers, for the reasons the Inspector has given in paragraphs 13.40–13.50 of his report, that the proposal would have a potentially adverse impact on its features of nature conservation interest. He acknowledges that there may be scope for mitigating some of these adverse impacts, but he accepts the Inspector's view that, on the information provided, it is uncertain whether the potential permanent damage to the nature conservation interest of the Rammey Marsh could be mitigated to an acceptable degree [IR 13.51]. Having regard to paragraphs 13.52–13.54 of the Inspector's report, the Secretary of State agrees with the Inspector that the visual impact of the scheme on the Rammey Marsh would be relatively limited. However, he also agrees with the Inspector, for the reasons he given in IR 13.55–13.57, that the effect of the proposal on the character and appearance of the River Lee Navigation would be significantly more harmful.

18. Turning to the potential impact of the proposal on Epping Forest, the Secretary of State notes that the Council carried out an air quality assessment. However, he shares the Inspector's view that there are several significant areas of uncertainty about the reliability of the air quality assessment. Given this uncertainty, the Secretary of State cannot be satisfied that the scheme would not have a significantly detrimental effect on the features put forward as being of European interest in Epping Forest [IR 13.71].

Compliance with the Development Plan

19. Having considered the proposals against the Enfield UDP the Inspector has concluded (IR 13.97) that the NGAR would either comply with a number of policies, be not inconsistent with others or, with mitigation measures, not cause an unacceptable conflict with others. The Secretary of State agrees with the Inspector that what is overriding is whether the harm NGAR would cause by reason of Green Belt inappropriateness is outweighed by the regeneration case for it. On this issue the Secretary of State has already accepted (paragraph 16 above) that the case made out is not sufficiently strong to outweigh the objection on green belt grounds. In relation to policies which apply to that part of the site within Epping Forest District, again there are some conflicts, especially regarding green belt policies, but also aspects which comply with policies.

Overall Conclusion

20. The Secretary of State agrees with the Inspector's overall balance and final conclusions in IR 13.105–13.111. He recognises that there is a need to secure regeneration in the Lee Valley, but he is not satisfied that development of this new road is essential to the regeneration process. Therefore he concludes that such factors do not amount to the very special circumstances necessary to justify inappropriate development in the Green Belt, or to the likely harm caused to the features of nature conservation interest of the Rammey Marsh, the River Lee Navigation and Epping Forest. Furthermore, the Secretary of State considers that, because of the uncertainty arising over the nature

and scope of the public transport enhancements and traffic restraints measures proposed, it is not clear whether the scheme would be compatible with PPG13. He has concluded therefore, that the proposal is contrary to development plan policies for the Green Belt and there are not material considerations of such weight as to indicate that he should determine the applications other than in accordance with the development plan.

Formal Decision

21. Accordingly, for the reasons given above, the Secretary of State accepts the Inspector's recommendation. He hereby refuses planning permission for the construction of a new road, including new junctions on Mollison Avenue, eastwards to Epping Forest DC, including provision of cycle and foot-way facilities, car park and accesses in accordance with application nos. 96/0024 and EPF/1277/96.

Right to Challenge the decision

22. The attached note sets out the circumstances in which the validity of the Secretary of the State's decisions may be challenged by making an application to the High Court.

23. A copy of this letter has been sent to Epping Forest District Council and all those who appeared at the inquiry.

Yours faithfully



MISS A GERRY

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