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Our reference JLW/1093874/O40426319.1/JLW

Your reference TR050006

By email: [NorthamptonGateway@pins.gsi.gov.uk](mailto:NorthamptonGateway@pins.gsi.gov.uk)

**2 October 2018**

Dear Sirs

**Northampton Gateway Rail Freight Interchange ("Northampton Gateway")  
Response to Rule 6 Letter**

We write on behalf of Ashfield Land Limited ("Ashfield Land") and Gazeley GLP Northampton s.à.r.l ("Gazeley GLP Northampton") who are Interested Parties to the Northampton Gateway Examination. This letter responds to the Rule 6 letter issued by the Planning Inspectorate on 10 September 2018 (the "Rule 6 letter").

We confirm it is Ashfield Land and Gazeley GLP Northampton's intention to attend the Preliminary Meeting on Tuesday 9 October and, as requested by the Examining Authority, to attend the Issue Specific Hearing 1 (ISH 1) on the draft Development Consent Order (dDCO), which immediately follows the Preliminary Meeting. Ashfield Land and Gazeley GLP Northampton will be represented by Counsel. Members of the Rail Central project team will also attend to assist the Examining Authority if required.

It is not Ashfield Land and Gazeley GLP Northampton's intention to participate in the Open Floor Hearing scheduled for 10 November 2018 given it will participate fully in the ISHs.

*Procedural Issues – Introduction*

Ashfield Land and Gazeley GLP Northampton are jointly promoting the Rail Central Strategic Rail Freight Interchange ("Rail Central") on land adjacent to and in parts overlapping with the land on which Northampton Gateway is proposed by Roxhill (Junction 15) Limited ("the Applicant"). The Rail Central development consent application was submitted to the Planning Inspectorate on 21 September 2018.

In consequence there are two applications for strategic rail freight interchanges ("SRFIs") on adjacent (and in places overlapping) sites which the Secretary of State will need to determine. These applications are at different stages of the process, but it is plain that the examination and

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determination of each application will need to take full and proper consideration of the potential implications of the other. This is a matter addressed in our clients' relevant representations, and it will be necessary to consider the procedural issues that arise at the Preliminary Meeting.

So far as we are aware, this is a situation which has not previously arisen in an examination under the Planning Act 2008. As such there are no precedents for the Examining Authority or Secretary of State to use as a guide. Nor is it a situation addressed by any of the published guidance or advice notes. Careful management will be needed to ensure that both Examining Authorities are provided with all of the evidence required to enable them to make informed recommendations to the Secretary of State having regard to the relationship between the two schemes, and the range of potential outcomes the Secretary of State may need to consider. Ultimately, it will fall to the Secretary of State to decide whether to grant or refuse development consent for one or both schemes, but those decisions must be ones that are fully informed.

For example, the Secretary of State will need to have sufficient information before him to come to a view on at least the following issues:

- Whether there is market demand for (or that would be created by) two SRFIs in this location (which is the view taken by Ashfield Land and Gazeley GLP Northampton and, we understand, Roxhill (Junction 15) Limited, the applicant for Northampton Gateway).
- Whether or not the combined effects of the two schemes are acceptable, having regard to the overall balance of benefits and adverse effects if both schemes were to be developed.
- Given that neither of the Examining Authorities will know the Secretary of State's position on those first two issues, each will need to be in a position to inform the Secretary of State of its views on the relative merits of the schemes. The Northampton Gateway application appears to anticipate this. The documents submitted in support of the application include a comparative assessment of both schemes (APP-129), although the conclusions of that comparative assessment will obviously need to be interrogated through the Examination process. It is clearly an issue that the Applicant regards as material to the Examining Authority's consideration of the application.
- Mitigation:
  - o Is there any additional mitigation necessitated if both schemes come forward?
  - o Does the delivery of both schemes alongside each other have implications for the appropriate trigger points and timing for the delivery of mitigation proposed in relation to each individual scheme?
- Compatibility of the proposed DCO provisions in each scheme. Each DCO will need to cater for the potential of both schemes being consented and built out, including the management of the areas of overlap and the different proposals each scheme contains for the improvement of Junction 15a of the M1.

In order to be able to consider and come to properly informed recommendations to the Secretary of State on the above issues, each Examining Authority will have to have careful regard to the other scheme's application documentation and its progression through examination.

As we have said, there would not appear to be any precedents to guide the Examining Authority in how to deal with this situation. A bespoke approach will need to be taken, and it will be important to ensure that it provides the Examining Authority with the information and assistance it requires, and that it is transparent and fair to all parties. We suggest that, at the least, a protocol for information sharing is drawn up by the relevant case managers. We suggest that both the Applicant and Ashfield Land and Gazeley GLP Northampton are given an opportunity to comment on that protocol. The case managers for Rail Central have already recommended that, as part of the protocol, it contains a



summary document that references exactly where both Rail Central and Northampton Gateway are referred to in each other's' application documentation respectively. The consultant team for Rail Central have already commenced the process of collating such a document, in order to assist the Northampton Gateway Examination process.

Given that the ultimate decision on both applications will be made by the Secretary of State, we consider it important to provide him with an opportunity at this early stage to engage with the procedural issues that arise, and to offer the Examining Authority any guidance that he may consider appropriate. We are therefore writing separately to the Secretary of State to invite him to take that step. As part of his consideration of the procedural issues, we will be inviting the Secretary of State to indicate whether it is his intention to make a decision on both applications together. We are firmly of the view that this would be the most appropriate course of action to adopt in the public interest, for the reasons we set out in our letter to the Secretary of State. Whilst that must necessarily be a matter for the Secretary of State and not the Examining Authorities, it will be important for the Examining Authority, the Applicant and all Interested Parties to understand how these two inter-related decisions will be made. A copy of our letter to the Secretary of State is appended.

#### *Procedural issues – identification of items and submissions*

The Rule 6 Letter requests parties to identify agenda items for the Preliminary Meeting on which they wish to speak. Ashfield Land and Gazeley GLP Northampton would wish to make submissions on the following Items:

- Item 3: Initial Assessment of Principal Issues (Rule 6 Letter Annex B)
- Item 4: Draft Timetable for the Examination (Rule 6 Letter Annex C)
- Item 5: Statements of Common Ground (Rule 6 Letter Annex E, paragraph 9)
- Item 6: Hearings and Accompanied Site Inspection (ASI)

An outline of Ashfield Land and Gazeley GLP Northampton's submissions on these Items is set out below.

#### Item 3: Initial Assessment of Principal Issues (Rule 6 Letter Annex B)

There are four additional principal issues that Ashfield Land and Gazeley GLP Northampton's suggest ought to form part of the examination:

1. **Market Demand:** Whilst need for a network of SRFIs is established by the National Policy Statement for National Networks, both applicants have submitted assessments of market demand (for Northampton Gateway see document APP-378; as part of the Rail Central application a Market Assessment Report has been submitted (a copy will be submitted alongside our client's written representations)). The Secretary of State may wish to consider both applicants' views on whether there is existing market demand for (or that would be created by) SRFIs in this location. This issue could be addressed under Economic and Social impacts (alongside the analysis of the Market Area served by the proposed development) or under the Other Strategic Projects and Proposals heading.
2. **Climate:** under 'Environmental Impacts', Ashfield Land and Gazeley GLP Northampton submit that the proposed development's impact on climate (for example the nature and magnitude of greenhouse gas emissions and the vulnerability of the project to climate change and the need to adapt) require consideration, alongside their interaction with other environmental effects. This is a specific inclusion in The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and the Applicant produced its Environmental Statement to accord with these regulations.

3. Strategic Projects and Proposals: For the reasons set out above, this issue should include express reference to the comparative merits of the two schemes. Further submissions are made at Item 6 below regarding ISH4 Cumulative Impact Issues and the requirement for ongoing cumulative impact assessment following the submission of the Rail Central application.
4. Operational Compatibility: the Examining Authority will need to be satisfied that both schemes could operate satisfactorily on the rail network at the same time. This issue can be considered as part of the Traffic and Transport issue. We suggest it is explicitly referenced under this heading. A Rail Operations Report has been submitted as part of the Rail Central application. This finds that in terms of main line access and network capability no design issues have been identified which would otherwise prevent Northampton Gateway and Rail Central from being able to operate together as Strategic Freight Interchanges.

We assume that the first of the Examining Authority's issues under "Traffic and Transport", namely "Justification for the transport proposals to meet the traffic generation that is forecast by development of the SRFI", would embrace consideration of whether the proposed Road Bypass is properly to be regarded as Associated Development, applying the Government's associated development principles.

Item 4: Draft Timetable for the Examination (Rule 6 Letter Annex C)

Ashfield Land and Gazeley GLP Northampton agree with the proposed ISHs that have been identified so far but, as set out below, request that at least one further ISH is held later in the examination timetable to facilitate detailed examination of the inter-relationship between Northampton Gateway and Rail Central.

We confirm below that Ashfield Land and Gazeley GLP Northampton wish to be heard in relation to the compulsory acquisition by Northampton Gateway of land in which they have an interest. We suggest that a full day will be required for the CAH.

Item 5: Statements of Common Ground (Rule 6 Letter Annex E, paragraph 9)

The Examining Authority has invited the Applicant to enter into a Statement of Common Ground with Ashfield Land and Gazeley GLP Northampton (see paragraph 9 of Annex C to the Rule 6 letter). We welcome that opportunity. In this regard, representatives of Ashfield Land and Gazeley GLP Northampton are meeting the Applicant's Planning Consultant and Solicitors on 2 October 2018 to discuss the relationship between Rail Central and Northampton Gateway.

We suggest that it would be likely to assist the Examining Authority if a further SoCG was also prepared between the Applicant, Ashfield Land, Gazeley GLP Northampton and Network Rail in order to address the operational compatibility of the two schemes.

Item 6: Hearings and Accompanied Site Inspection (ASI)

Ashfield Land and Gazeley GLP Northampton will make the following submissions relating to the proposed hearings under this Item:

*Request for ISH regarding inter-relationship between Northampton Gateway and Rail Central*

We have set out above the reasons that the inter-relationship between the Northampton Gateway and Rail Central schemes will necessarily be an important material consideration for this examination.

The reality is that the Northampton Gateway application, as submitted, does not address adequately the possibility that both Rail Central and Northampton Gateway could be consented by the Secretary of State and be constructed in a similar timescale, and thereafter be in operation at the same time. By way of example, the Northampton Gateway Planning Statement solely contemplates a circumstance whereby only one scheme can be granted development consent. This does not provide a proper basis



to understand the multiple inter-relationships between the two schemes, to draft the DCO so that it properly addresses the possibility of both schemes being developed, and to assess any effects on the extent and timing of mitigation. This failure, if not corrected, will lead to a dDCO before the Secretary of State that will simply not work should he decide to permit both schemes.

It is essential that these issues are adequately articulated, understood and addressed. Although there will necessarily be extensive written evidence and submissions on these matters, we consider that at least one ISH on this topic will be necessary both to allow the Examining Authority to probe the issues we have identified above, and to ensure that Ashfield Land and Gazeley GLP Northampton have an adequate opportunity to present its case on these matters.

#### *ISH1 & ISH3 dDCO*

Both Ashfield Land and Gazeley GLP Northampton will attend the proposed ISH1 dDCO and ISH3 dDCO sessions.

Ashfield Land and Gazeley GLP Northampton anticipate commenting on the Articles and Requirements of the dDCO where these are relevant to the case outlined in its relevant representations, including areas of inter-relation and delivery of Northampton Gateway alongside Rail Central.

#### *ISH 2 Environmental Matters, Landscape & Visual, Ecology & Air Quality*

Both Ashfield Land and Gazeley GLP Northampton will attend the Environmental Matters, Landscape & Visual, Ecology and Air Quality ISH, supported by the Rail Central project team.

#### *Compulsory Acquisition Hearings (CAH & CAH2)*

Ashfield Land and Gazeley GLP Northampton will attend the Compulsory Acquisition Hearings. Ashfield Land has an interest within the Northampton Gateway Order Limits in the form of an option agreement over parcels 1/7 and 1/12.

Ashfield Land and Gazeley GLP Northampton will make representations on the proposed compulsory acquisition of these parcels and on the need to include Protective Provisions for the benefit of Rail Central within the Northampton Gateway dDCO.

#### *ISH4 Cumulative Impact Issues*

Both Ashfield Land and Gazeley GLP Northampton will attend the Cumulative Impact Issues ISH supported by the Rail Central project team.

Ashfield Land and Gazeley GLP Northampton would draw to the Examining Authority's attention the cumulative assessment undertaken for the Rail Central project. A copy of the Cumulative Effects Summary (Chapter 22 of the Rail Central Environmental Statement) will be provided as an appendix to our client's written representations in due course.

The Northampton Gateway cumulative assessment has been carried out on the basis of information about the Rail Central proposals gleaned from pre-application consultation material. In a number of important respects that information is no longer up to date, because it does not reflect the Rail Central application as submitted. There is a consequent need for the Northampton Gateway cumulative assessment to be updated to take account of the Rail Central application. We suggest that a date for the submission of the updated Northampton Gateway cumulative assessment should be included within the Examination timetable. The timing of submission will need to ensure that adequate opportunity is afforded to the Examining Authority and all Interested Parties to consider and comment on any implications this may have for the principal issues that have been identified, including the drafting of the DCO. In particular, we suggest that submission should take place prior to the suggested ISH on the inter-relationship between the two schemes.

### *Conclusion*

Given the close relationship between both Rail Central and Northampton Gateway and the likely concurrency of their Examinations, Ashfield Land and Gazeley GLP Northampton wish to avoid a situation whereby the Secretary of State would receive recommendations from the Examining Authority for either Northampton Gateway or Rail Central which do not address all the issues and potential permutations the Secretary of State may need to consider in order to reach properly informed decisions, or would lead to consents which are incompatible and cannot be delivered.

Therefore, as set out above, Ashfield Land and Gazeley GLP Northampton suggest that there is co-ordination between the Examining Authorities of Rail Central and Northampton Gateway, including at least sharing information provided to the DCO Examinations of both projects.

Ashfield Land and Gazeley GLP Northampton would propose to make further submissions on the issue of co-ordination between the Examinations of both projects at the Preliminary Meeting.

Yours faithfully

  
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**2 October 2018**

Dear Sir

**Examination of Rail Central Strategic Rail Freight Interchange and Northampton Gateway Rail Freight Interchange**

We write on behalf of Ashfield Land Limited ("Ashfield Land") and Gazeley GLP Northampton s.à.r.l ("Gazeley GLP Northampton") who are jointly promoting the Rail Central Strategic Rail Freight Interchange ("Rail Central").

Rail Central comprises a new Strategic Rail Freight Interchange and associated logistics / warehouse buildings that will provide up to 702,097 sq m of rail connected and rail served warehousing with storage and distribution warehouses and ancillary office accommodation south of Northampton, between the villages of Blisworth and Milton Malsor. Rail Central comprises two Nationally Significant Infrastructure Projects, being the SRFI itself and improvements to Junction 15A of the M1, which are a NSIP in their own right. Rail Central was submitted as a development consent application to the Planning Inspectorate on 21 September 2018 under reference TR050004.

The purpose of this letter is to draw the Secretary of State's attention to certain important procedural issues which arise because of the relationship between the examination and determination of the Rail Central application and the examination and determination of the closely related Northampton Gateway Rail Freight Interchange ("Northampton Gateway") development consent application.

*Background*

Northampton Gateway is promoted by Roxhill (Junction 15) Limited and comprises an intermodal freight terminal, 468,000 sq m of warehousing and ancillary buildings, new road infrastructure and improvements to Junction 15 and 15A of the M1. Northampton Gateway is located to the west of the M1 motorway in the vicinity of Junction 15 and east of the Northampton Loop railway line. Northampton Gateway was submitted as a development consent application to the Planning Inspectorate on 18 May 2018 under reference TR050006.

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The Rail Central scheme is proposed on land adjacent to and in parts overlapping with the land on which the Northampton Gateway scheme is proposed. In consequence there will be two live applications for strategic rail freight interchanges ("SRFIs") on adjacent (and in places overlapping) sites which the Secretary of State will need to determine. Although these applications are at different stages of the examination process, it is clear that the examination and determination of each application will need to take full and proper consideration of the potential implications of the other. Careful management will be needed to ensure that both Examining Authorities are provided with all of the evidence required to enable them to make informed recommendations to the Secretary of State having regard to the relationship between the two schemes, and the range of potential outcomes he may need to consider when making decisions on the two applications in due course.

So far as we are aware, this is a situation which has not previously arisen in an examination under the Planning Act 2008. As such there are no precedents for the Examining Authority or Secretary of State to use as a guide, nor is it a situation addressed by any of the published guidance or advice notes.

#### *Northampton Gateway Preliminary Meeting*

A Preliminary Meeting for the Northampton Gateway application is timetabled for 9 October 2018. Our clients intend to make a series of submissions to the Examining Authority at that Preliminary Meeting regarding the procedural and practical engagement between the two Examinations.

A copy of the letter sent to the Northampton Gateway Examining Authority in response to their Rule 6 letter is enclosed which sets out the substance of these submissions, including comments on the principal issues of environmental impacts, cumulative impact, market demand, operational compatibility and interrelationship between the two Projects.

As that letter explains, however, in light of the fact that the ultimate decision on both applications will be for the Secretary of State, we consider it to be important to draw these matters to his attention now and thus provide him with an opportunity at this early stage to engage with the procedural issues that arise, and to offer the Examining Authority any guidance that he may consider appropriate.

#### *Procedural Issue for the Secretary of State*

In light of the matters we have identified in our response to the Examining Authority's Rule 6 letter, we would ask that the Secretary of State at this stage considers whether it may be appropriate to provide any guidance regarding co-ordination of the examination of the two applications.

Separately, we would invite the Secretary of State to give consideration to the issue of whether it would be appropriate and in the public interest to make a decision on both applications together, after considering the reports and recommendations of both Examining Authorities. It is our view that this would be the most appropriate course of action to adopt in the public interest. If the Secretary of State ultimately concludes that both projects should be granted development consent, such an approach would ensure that the development consent orders were compatible and that the issues arising from implementation and operation of both schemes at the same time were assessed and addressed in a properly integrated way. Alternatively, if the Secretary of State ultimately concludes that only one (but not both) projects should be granted development consent and it is necessary to decide between them, that choice can only sensibly be made by determining the two applications at the same time.

We anticipate that before the Secretary of State makes any decision in response to our requests, he will wish to canvass the views of the Examining Authority and Roxhill (Junction 15) Limited, amongst others. We also recognise that it will be for the Examining Authority to control how the Examination is conducted, and our submissions at the Preliminary Meeting will be intended to inform its consideration of these points and its subsequent procedural decisions.

However, we do not consider there to be any reason why the Secretary of State could not or should not offer specific guidance to cater for the unusual circumstances that have arisen here, if he considers that to be appropriate.



Furthermore, we consider it would be helpful for the Examining Authority and the parties to understand at an early stage whether it is the Secretary of State's intention to determine the applications in sequence as they are reported to him, or together. At the very least, this is likely to have practical implications for both the examination and reporting of the two applications.

*Conclusion*

We would be grateful to receive the Secretary of State's responses on the procedural issues referred to above.

Yours faithfully



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