



North

Yorkshire County Council

Chief Executive's Group

Our ref: 104849 LR

Your ref: N/A

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30 July 2012

Dear Sirs,

Bedale, Aiskew and Leeming Bar Bypass Scheme ("BALB")
Planning Act 2008: Nationally Significant Infrastructure Projects

The County Council has applied to itself for planning permission for a road bypass scheme for which the DfT have recently committed funds. The purpose of this letter is to set out why we do not think that the NSIP requirement for development consent will apply to the project, and that usual planning jurisdiction is retained. I will be grateful to you for confirming receipt of this letter, and if there are any matters arising you wish to discuss, please do not hesitate to contact me.

The Highways Agency of the DfT has recently raised the spectre of a number of highways schemes being NSIP applications for development consent requiring referral to the Major Infrastructure Planning Unit under the provisions of the Planning Act 2008.

The BALB scheme is plainly 'highway-related development' for the purposes of section 14 of the 2008 Act. It crosses an existing junction of the A1(M) at Leeming Bar in North Yorkshire, and ties into roundabouts that have recently been constructed for the Highways Agency as part of the A1(M) upgrade scheme between Dishforth and Leeming. However, the County Council considers that it has jurisdiction to determine a planning application for the scheme in the usual way. That is because section 14(1)(h) is subject to the requirements of section 22 of the Act; we do not consider that the tests in section 22 are made out; and so the scheme proposals ought not to fall to MIPU for determination.

Specifically, section 22 of the Act provides that a scheme will fall within section 14(1)(h) only if (for present purposes) it consists of the construction of a highway for a purpose connected with a highway for which the Secretary of State is (or will be) the highway authority.

The question is therefore one of purposive connection, and the general point to be made is that BALB is not to be purposively connected with a highway for which the Secretary of State is the highway authority, i.e. the A1(M), and does not require any alterations or improvements to the Secretary of State's network.

Major Infrastructure Planning Unit
The Planning Inspectorate
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Avon BS1 6PN

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We have exchanged correspondence with the Highways Agency on this issue, and they concur with our view. Specifically, on 11 May 2012, they wrote to say that:

"...The inclusion of the term 'Bypass' in the project title would seem to be the key since it implies that the purpose of the proposals is to alleviate traffic problems within the named settlements.

Therefore, it is not a scheme that would be carried out for a purpose in connection with a road for which the SoS is the highway authority. Rather the route identified just happens to cross such a road, quite logically at a location where a junction already has been provided."

For these reasons we do not intend to trouble the MIPU with an application for development consent.

Yours faithfully,

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Laura Renaudon LARTPI Solicitor
For Assistant Chief Executive (Legal and Democratic Services)