Joint Written Representation to the Planning Inspectorate
Re: The Examination into the Northern Distributor Road

PUBLIC ENGAGEMENT
AND CONSULTATION

From:
CPRE Norfolk,
Norwich Green Party,
Norfolk and Norwich Transport Action Group (NNTAG),
Stop Norwich Urbanisation (SNUB) and
Hockering Parish Council

With input from
Professor John Greenaway and Campaign for Better Transport (CfBT)
Introduction

Following the demonstrations before, and the level of anger and public opposition at, the Preliminary Meeting on 2 June 2014, the Planning Inspectors will be in no doubt that there is a great deal of concern about the NDR; not just the road *per se*, but the manner in which Norfolk County Council (NCC) have consulted the public throughout the life of the NDR, from when it was originally presented to the public in 2003, through to the latest consultation in summer 2013. There are six separate areas in which the Council has failed in its statutory duty to properly consult the public and affected groups.

1. How Norfolk County Council Changed the NDR from a Local Road Scheme to a ‘Nationally Significant’ Project to the Detriment of Local People (1988-present)
2. The failure of the consultation process between 2003 and 2013
3. The illegitimacy of the NSIP pre-application consultation on Norwich Northern Distributor Road (Summer 2013)
4. The lack of consultation with affected parish councils
5. The disappearance of consultation responses from key objectors
6. NCC’s misrepresentation of consultation responses to PINS, NCC elected members and the public.

Each of these issues will be expanded in detail later in this document and in the appendices.

Taken individually or collectively, these consultation failings provide clear evidence that the process of consultation which has enabled the road to reach this NSIP Examination stage contravenes both UK Planning Law (s47 and s49 of the 2008 Planning Act) and the requirements of the Aarhus Convention which establishes the right for the public to participate in environmental decision-making.

We also believe that there have been additional process failings by PINS which have contributed to further deter the public from engaging and fully participating in this consultation process, ie:

- The deadlines and expectations imposed upon the public and individuals to submit written representations are insultingly short and demanding. The Planning Inspector herself has acknowledged the complexity of the case and the level of
public interest and has proposed that a panel of inspectors be convened to hear the application. It is unrealistic to expect ordinary members of the public to analyse the complexity of documents available on the PINS website within the given time frames, and it is reasonable to assume that the public will instead find the Local Impact Reports (LIR) more accessible and easier to understand. However the joint LIR was only made available to the public in draft form on Thursday June 19th, leaving just 11 days for the public and parish councils to assess the documents and respond.

- There is no easy way to search for and analyse key documents on the PINS website, particularly PDFs. The documents are unstructured with inconsistent referencing and inadequate use of hyperlinks. This makes the public's ability to access, fully understand then analyse the application almost impossible.

- Throughout the month of June 2014, the NDR page on the PINS website stated that the next ‘Date for your Diary’ is ‘02/12/2014 - Deadline for close of examination’. This was extremely misleading as the public needed to be alerted to the June 30th deadline for the Written Representations, particularly given the absence of the revised timetable and the Rule 8 letter. When this was raised with the PINS caseworker, we were told that they are ‘unable to amend the ‘Dates for your diary’ section manually’.

**Relevant legislation**

- Planning Act 2008: Section 47 and Section 49

**The Consultation Failings**

Dealing in turn with the six consultation failings as outlined in the introduction;

1. **How Norfolk County Council Changed the NDR from a Local Road Scheme to a 'Nationally Significant' Project to the Detriment of Local People [1988 – 2014]**

This section describes the history of the scheme from a local road scheme to nationally significant project between 1988 and 2014, and the lack of
transparency and public engagement as the changes were made. \textit{(Full detail is provided in Appendix 1)}

2. The failure of the consultation process between 2003 and 2013

Despite its local controversy, Norfolk County Council (NCC) never consulted the public specifically on the Northern Distributor Road (NDR) in the period 2003-2011 up to the submission of the best and final bid for Development Poll funding in 2011. This section describes the consultation deficit in this period. \textit{(Full detail is provided in Appendix 2)}

3. Illegitimacy of the NSIP pre-application consultation on Norwich Northern Distributor Road (Summer 2013)

The NSIP pre-application consultation on Norwich Northern Distributor Road (Summer 2013) was illegitimate and profoundly flawed. For several weeks in the middle of the consultation, the scheme had no legal status under the Planning Act 2008 to require a Development Consent order process despite that being the purported reason for the consultation. The public have been fundamentally prejudiced because they were unreasonably asked to respond to a consultation on a scheme whose legal basis and rationale both changed several times during the consultation period, and had no legal basis for part of the consultation period.

Norfolk County Council has provided a legal opinion on the validity of the pre-application consultation at Appendix D within Application 5.1 Consultation Report Appendices A to J which is flawed. It attempts to construct an argument that the project (and, therefore, the pre-application consultation) was still subject to the procedures of the PA2008 between July 25th and August 9th because NCC made two requests to the SoS for a section 35 direction (one on July 24th, and once on July 25th). However, the intention to restore the legal DCO status of the project is not the same as actually having it. Further, it is abundantly clear to objectors that the change from a section 22(2) of PA2008 NSIP to a section 35 PA 2008 direction involved substantive changes or extensions to the project in terms of principle, need, impacts, and alternatives to the scheme.

The main consultation area was limited to North Norwich and a ring of villages beyond. The consultation area should have also included all of Norwich including Norwich City centre and south Norwich, and the South Norfolk part of the Norwich Policy Area, and also villages in Breckland which are noted as having significant traffic impacts in the Local Impact Report at the outset as a local authority scheme under section 22(2) of PA2008.
Although the consultation became invalid on July 25th 2013 when section 22(2) status, and corresponding legal status as a DCO process, was removed due to a statutory instrument to the legislation, even if the consultation after that date had been valid, then the consultation area should have been much larger. By Sept 20th 2013, the area should have included the whole of East Norfolk including whole of Norwich Policy Area, the A47 corridor and Great Yarmouth, and also villages to the West of Norwich relating any new route over the Wensum valley, given the additional rationales added to the project.

(Further detail is provided in Appendix 3)

4. The lack of consultation with affected parish councils

The number of parishes affected by the impact of NDR-related traffic is considerable, yet NCC only informed and consulted those parish councils representing areas where the road actually physically traverses. Other parish councils, particularly in the District of Breckland, have not been pro-actively consulted by NCC, yet the traffic generated by the NDR will significantly affect them. The case study below, prepared by Richard Hawker, Hockering Parish Councillor with responsibility for Roads and Transport, explains why NCC’s approach to the consultation of parish councils is flawed.

“Hockering Village is situated on a road which was the main A47. The village was by-passed in the mid-1970s, by a road which is only some 30 yards from the village. The other main road through the village, the C173, runs from the A47 to the A1067 at Lenwade. In 1980, Norfolk County Council designated this road as a Main HGV Distributor Road in its route hierarchy. There was no consultation about this proposal at all. Since then, Hockering has been pressing NCC constantly for a better HGV route, to enable lorries to be banned from the village. NCC has carried out many consultations and issued many reports on options for a new route, with very little change on the ground. Now, after almost 35 years, we are due to have an alternative route, on widened existing roads, to be brought into operation later this year. NCC cannot be in any doubt as to the importance with which Hockering treats any road traffic topic. Nor is there any doubt that any NDR proposal will increase traffic on our roads; NCC’s own figures show this, yet we have not been consulted on the latest NDR proposals.
The ‘Guidance on pre-application consultation’ (under the Planning Act 2008) published by the Department for Communities and Local Government (para 50) states that:

‘section 47 of the Act requires promoters to consult people living in ‘the vicinity of the land’. Promoters are encouraged to view this requirement from a broad perspective, and aim to capture the views of those who . . . use the area .”.

Also (paras 52 and 53):

“The Act uses the broad term ‘vicinity’ to allow for the fact that projects will vary . . . Promoters must . . . make a judgement as to what this means in each case . . . consultation for a long linear scheme will be different from that for a new power station. Promoters must strike a balance between consulting those who are significantly affected by the proposals (defined in section 42 (i.e. ‘host’ parishes and their neighbours)) . . . and consulting a wider group of local people who will not be directly affected, but who will have a reasonable fear that they might be, or will have strong feelings about a project (and) . . . may include people who live in the proximity of the development, but not close enough to be physically affected by it”

I do not understand how Hockering could not be considered to be included in the categories above.

In the event, if we had not been advised, by means of a casual remark from Weston Longville Parish Council, of the impending Examination, we would have missed the deadline for registering our concern. As it is, our time has been curtailed as a result, and it has not been possible to involve our local parishioners to the extent we could have done, given more time.

We contend that NCC should have consulted us, as a matter of course, and because of our past history of interest.

We are also aggrieved that PINS have accepted this application, when clearly the consultation plan was inadequate and not in accordance with the guidance note.”
5. The disappearance of consultation responses from key objectors

The Inspectors will be familiar with the matter of the lost consultations, but for the
uninitiated, the facts are as follows: Norfolk County Council carried out a
Statement of Community Consultation (SOCC) in the summer of 2013, inviting
the public to comment on the plans to make the NDR an NSIP. CPRE Norfolk,
the Norwich Green Party and a local campaign group Stop Norwich Urbanisation
(SNUB) all submitted responses to the consultation. However when the
consultation report was published in January 2014, it emerged that these three
submissions had not been included. Initially Norfolk County council denied ever
receiving them, although there was clear evidence they had been received.
Eventually NCC acknowledged they had been received, then ‘lost’, and they
commissioned an internal investigation. The report has finally been published
and NCC has concluded they were ‘unable to arrive at a definite view as to what
happened’, ie: they don’t know. (Relevant section of report attached as Appendix
4). The lost submissions raise two areas of concern.

a. The content of the lost submissions: PINS claims that the issues SNUB,
CPRE Norfolk and Norwich Green Party raised in our submissions were
covered by other objectors. However we still contend that has not been the
case, for example, no other submissions went through and identified the four
phases of the consultation.

b. The extent of the lost submissions: If NCC cannot explain how these three
particular submissions were lost, then they cannot possibly know whether
other submissions may have gone astray. This affects both the quantity and
the quality of submissions, and their content.

If the emails were deliberately deleted by someone, then further investigation
needs to be taken to determine who this was. However, if it was just a
technical or accidental error; then the probability of the problem being limited,
by coincidence, to three major campaign groups, is so statistically unlikely as
to be discounted and we can presume that this ‘error’ happened to other
responses which have also been accidentally deleted. NCC are relying on
the public coming forward to check their submissions are all correct and
present; but there is not a simple mechanism for the public to do this. NCC
has taken no pro-active steps to determine whether there have been any
other lost consultations.
6. NCC’s misrepresentation of consultation responses to PINS, NCC elected members and the public:

Norfolk County Council has consistently misrepresented and over-played public support for the NDR.

- NCC continue to use the statistic that 78% of people support the NDR, but this is based on a consultation on the Norwich Area Transport Strategy in 2003, not the NDR specifically. In the same consultation "improving public transport" scored over 90%. The NDR, at the time, was conceived as a full NDR route, although detailed routes and costings were undeveloped and not presented to the public. The large expansion to the North East of Norwich, now known as the North East Growth Triangle and linked intimately to the current NDR scheme, was also not within the public domain. The NDR, still in early concept, was presented as a road scheme for local traffic, and not the national project for long distance and strategic traffic which terminates at A1067 that is currently on the table. (See also the Campaign for Better Transport report, Appendix 2).

- The results of the most recent consultation were 'spun' to present the NDR as having more popular support than it actually does. Independent analysis of the SOCC by Professor John Greenaway (Full report attached as Appendix 5) shows that the County Council’s report underestimated and played down the striking public opposition to the adopted NDR scheme.

- The consultation exercise therefore revealed that opponents to the scheme as a whole outnumber its supporters by an overwhelming number. The Council’s report also played down the widespread opinion that this scheme would produce very serious environmental damage.

- NCC presented their misleading version of the consultation not only to the public in January 2014 via the media and in their corporate publications, but also to elected members on 4th November 2013, and to PINS when they submitted their application for the DCO.

(Further detail is provided in Appendix 4)
Analysis of the registrations on the PINS website by Professor John Greenaway shows that:

- Among the key findings the independent analysis shows that:
  - Over 1,000 objectors to the NDR (over 86% of everyone who registered) of which over 92% are against any new road
  - 80% of those who registered were against any new road
  - Only 11% of those who registered expressed support for a new road in any form (NDR or a full northern bypass)
  - Only 5% of those who registered expressed support for the NDR

- This shows that the NCC claim that 78% of people support the NDR to be very misleading.

**Conclusion**

This ‘catalogue of errors’ by Norfolk County Council, exacerbated by the administration and processes imposed by PINS, provides clear and consistent evidence that the public has NOT been able to fully participate in the consultation on the NDR, as required by UK planning law and the Aarhus Convention. For this reason alone, we ask the Inspectors to recommend refusal of the application.

**From:**
CPRE Norfolk
Norwich Green Party
Norfolk and Norwich Transport Action Group
Hockering Parish Council
Stop Norwich Urbanisation

Submitted June 30th 2014 by email to NorwichNDR@infrastructure.gsi.gov.uk
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**Appendix 1:** How Norfolk County Council Changed the NDR from a Local Road Scheme to a 'Nationally Significant' Project to the Detriment of Local People

**Appendix 2 with annex:** Failings of the consultation process for the Norwich Northern Distributor Road (2003 until 2011 funding bid to DfT)

**Appendix 3 with annex:** The illegitimacy of the NSIP pre-application consultation on Norwich Northern Distributor Road (Summer 2013). Full analysis.

**Appendix 4:** Extract from Norfolk County Council’s Report: Review into missing submissions to Norwich Northern Distributor Road consultation process. Prepared by Al Collier, Head of Procurement, June 10th, 2014

**Appendix 5:** Report from Professor John Greenaway, dated and submitted to Planning Inspector 27 January 2014: *Norwich Northern Distributor Road - Assessment of Section 47 and Section 48 Consultation Responses*
APPENDIX 1
How Norfolk County Council Changed the NDR from a Scheme for Tackling Local Traffic to a 'Nationally Significant' Project for Promoting Economic Growth, to the Detriment of Local People

Preamble

The scheme under examination is the three quarters version of the NDR concept proposed as part of a transport vision in ‘Shaping the Future Strategy: The Economic Development Strategy for Norfolk 2001 - 2010’ and endorsed by Norfolk County Council (NCC) in 2001. The aspiration was for a major transport route linking the Midlands and the Continent: A11 dualling, A47 dualling, the NDR, expansion of Norwich Airport and a Great Yarmouth outer harbour.

The promotional brochure, Northern Distributor Route: Unlocking potential for Greater Norwich, based on a report published by NCC in Autumn 2013, shows how the NDR fits into the County's larger transport ambitions.

http://www.norfolk.gov.uk/Travel_and_transport/Major_projects_and_improvement_plans/Norwich/Northern_Distributor_Road/index.htm

Shaping the Future envisaged a full NDR to connect up with the A47 Norwich Southern Bypass and create a third orbital route around Norwich. However, NCC selected a route in 2005 that stopped short of a western crossing of the River Wensum, designated for its international habitat importance (Special Area of Conservation). The selected route terminated at A1067 as NCC didn't want to risk losing the NDR at a public inquiry.

What was in essence a ‘predict and provide’ scheme for supporting economic growth and strategic traffic, was presented to the public in 2003 as a road for reducing congestion and rat running in north Norwich and surrounding villages and removing city centre traffic, even though the A47 Norwich Southern Bypass which opened in 1993 had also been intended to remove general traffic from Norwich.

Ever since, NCC has continued to rely on the consultation results on the full NDR in 2003 in which 78% of the respondents supported the road.

With elected members keen to see a full NDR following on from approval of the three quarters route, NCC agreed in September 2013 to commission a feasibility study into a western river crossing.
In a democracy, it is important that members of the public and interest groups test the assumptions behind major projects. However, this has not been easy in the case of the NDR.

Elected members from all the 3 Councils have been unwilling to engage in debate. For example, the Greater Norwich Development Partnership which led the development of the Joint Core Strategy, which they predicated on the NDR, met from 2006 – 2010 behind closed doors and refused to publish agenda papers and minutes. The GNDP refused the JCS Panel's invitation to prepare a 'Plan B' alternative to Postwick Hub/NDR. The NCC and Broadland DC have eschewed the interest of community groups and even developers in exploring alternative solutions for facilitating growth and supporting sustainable transport.

The reality is that NCC has been fixed upon the NDR since 2000, and has brooked no constructive opposition, and failed to present alternatives for consultation.

At times, there has in our view been 'abuse of process'. This was most notable over Postwick Hub, the first stage of the NDR, for which NCC sought planning permission in 2008 with the help of property speculators and Broadland DC as an access road to a business park development. Even the Government Office was sufficiently troubled to seek a legal opinion on whether the planning route followed was lawful.

In another example, a senior NCC officer used delegated powers to agree payment of £177,000 to NCC's NDR consultants for work in preparing an Environmental Statement for Broadland Gate Business Park, which ought to have been borne by the private developer and not by the public purse.

More recently, the NCC opted to use the loophole for local roads in the Planning Act 2008 to seek a Development Consent Order to speed up the planning process for the NDR. When the Government changed the legislation closing the loophole, NCC applied to the Secretary of State for his dispensation under section 35 of the amended Planning Act, halfway through the public consultation. The grounds for treating the NDR as 'nationally significant' were that the NDR would connect Norwich Airport with the A47-TEN-T and Great Yarmouth Enterprise Zone. By this means, the NDR changed from a local road scheme to a strategic route serving the national interest.

Little wonder that individuals and community groups who have come into contact with NCC over the road have little confidence over the County acting even-handedly.

The next seven sections looks at the background of how the NDR turned from a local road scheme in a 'nationally significant infrastructure project'.
NDR: Background History

1. 1988 to 1996  Investigations into a Norwich Northern Bypass, Later Dropped

A review of NATS in 1988 resulted in a package of five road schemes and bus park and ride. A Northern Bypass formed part of the Preferred Strategy. NCC adopted the Strategy in 1992 with the exception of the Northern Bypass. The County claimed that the Preferred Strategy was dependent on completion of the Norwich Inner Ring Road Phase 3 for removing 19,000 through vehicles from the City centre.

In 1994, NCC carried out public consultation on a Northern Distributor Road as part of the review of the Norfolk Structure Plan for Norwich Policy Area.

“The road would be intended primarily for local traffic travelling around the northern urban area. This would make it very different from a bypass. The NDR – if it were built – would pass close to the built up areas and so be very accessible for short journeys. To make sure a new road would not create additional traffic it would be necessary to prevent new development in areas either side of the road”.


The majority of respondents supported a NDR, but there were also strong objections on environmental grounds.

The Secretaries of State rejected the Inner Ring Road Phase 3 in 1994 on environmental grounds following a call-in inquiry. This led to a fundamental review of NATS2. In 1997, NCC adopted NATS3 based on park and ride and no significant increase in road capacity.

Meanwhile, in 1996 NCC had dropped the NDR on financial and environmental grounds and also because national policy had begun to change towards a presumption against providing additional highway capacity. Norfolk Structure Plan NPA to 2011 was adopted in 1998 without a NDR.

However, a strong business and political lobby continued to campaign for the scheme. A new Chief Executive at NCC set up in 1997 an influential public private partnership, Shaping the Future, which revived the NDR.
Throughout the 1990s, developers and land agents had been investigating opportunities for development on land opened up by a northern bypass/distributor road. This extension has since become the North-East Growth Triangle.

2. 1997 – 2001: The NDR was Revived in 1997 as a Scheme for Promoting Economic Growth

Following the election of a new County Council administration in June 2000, the County Strategic Planning and Transport Review Panel requested and received a report on the NDR which noted that ‘Recent developments….have led to some requests that the possibility of a northern orbital route for Norwich be reviewed’.

Thereafter, the NCC embarked upon a review of NATS, with the pre-conceived view that the NDR was the answer to various transport challenges.

‘Shaping the Future Strategy: The Economic Development Strategy for Norfolk 2001 - 10 ’ (2001) was signed by the Chief Executive of Norfolk County Council as Chair of the Management Board and by the Managing Director of Norwich Airport International as Interim Chair of the Stakeholder Forum. The Strategy outlined the partners’ aspiration for five key transport infrastructure projects: dualling of the A11 and A47, expansion of Norwich Airport, the NDR and a Great Yarmouth Outer Harbour. Norfolk CC’s new Cabinet endorsed the Shaping the Future Strategy in September 2001.

A prominent member of Shaping the Future was the Lord Lieutenant of Norfolk, also chairman of Archant (1996 – 2014), publishers of the Eastern Daily Press (EDP) and Eastern Evening News (EEN), who also held the position of chairman of Savills (1994 – 2004) and was later appointed chairman of the campaign for a Great Yarmouth Outer Harbour. Archant staff were appointed to key positions on Shaping the Future. Archant’s chief executive (2002 - 2007) held the chair of SNF from 2006 – 2008. Archant Business Editor (2003 - 2008) worked as chief executive of SNF from 2008 – 2011 and in this role he sat on the board of the Greater Norwich Development Partnership (GNDP). He then moved to New Anglia LEP as the managing director in 2011 and now occupies a place of the board of the Greater Norwich Growth Board.

Through the pages of the EDP and EEN, Archant has over the years strongly backed, promoted and published editorials in favour of each of the five individual major transport infrastructure projects, including the NDR, put forward by Shaping the Future Strategy. The managing director of Archant wrote to the Postwick Hub public inquiry in 2013 stating the company’s support for the scheme.
3. 2003 to 2005: the public was consulted on a Full NDR as a means of alleviating traffic problems for two years after Norfolk County Council had 'in principle' endorsed the scheme to promote economic growth

In Autumn 2003, NCC consulted the public on a new Preferred Transport Strategy for Norwich, with various NDR route options linking the A47 west and east.

“This is a new road to distribute traffic around the north of Norwich and link with the A47 and A11 trunk roads. This, together with enforcement measures where necessary, will help to stop traffic using unsuitable suburban and rural roads and reduce congestion on other main roads.

A NDR will also help the economy by providing access to the main road network and key employment locations in North Norfolk, improving access to the airport (which will sustain it as a regional airport) and providing access to existing and potential housing developments in the north of Norwich”

Norwich Area Transport... Have your say. Norfolk County Council

A table on Changes in Traffic Flow showed large traffic reductions on selected routes.

78% of respondents supported building a NDR, although a much higher number (91%) supported 'Improving Traffic Flow on the Main Roads' (improving junctions, variable message signing etc) and 'Improving Public Transport' (over 90%).

The NCC Environmental Assessment Report for the NNDR (2003) explained that:

“The need for a road (the NNDR) will be considered as part of the review of the NATS strategy (sic) and can be examined in the issues consultation for the Structure Plan (review). However, Members have already agreed to reconsider a NNDR should this emerge as a chosen strategy from the NATS study.”

A Norwich Area Transportation Strategy Options Assessment Report (November 2004, prepared by Mott MacDonald) identified four alternative strategies that included the NDR.

In a report (2006) commissioned by NNTAG on aspects of the NDR, Dr Denvil Coombe commented:

“In my view, the OAR (Options Assessment Report 2004) appears to have been written with the main aim of proving that the NNDR is required”.
Norwich Northern Distributor Road - Examination Of Norfolk County Council’s Application For Development Consent Order

JOINT WRITTEN REPRESENTATION on PUBLIC ENGAGEMENT AND CONSULTATION

Following further consultation on route options, NCC dropped the western crossing over the River Wensum in response to objections from statutory environmental agencies. It adopted a Preferred Route in September 2005, based on a three quarters route between A47 Postwick Interchange and A1067 Fakenham Road.

Nonetheless, NCC has continued to rely on the 78% figure as the basis of public support for a three quarters NDR as recently as its newsletter in Spring 2014 even though the percentage was based on traffic reductions arising from a full NDR.

Even though the NDR was not included in the 2001 – 2006 Local Transport Plan, as a result of NCC’s influence with the East of England Regional Assembly, the scheme was made a regional transport priority in 2004 in the draft East of England Plan. Through its membership of STEER, a voluntary regional environmental transport group, NNTAG had a place on the Regional Transport Group and witnessed NCC’s efforts to achieve regional priority status for the NDR.

4. 2006 – 2012: Adoption of Three Quarters NDR and the Creation of a Development Route

In 2006, Norfolk CC split the NDR into 2 components i) the NDR and ii) the Postwick Hub) for funding and planning purposes.

NCC submitted a NDR Major Scheme Business Case (MSBC) to the Department for Transport (DfT) in July 2008. This submission was for the full NDR route between the A47 at Postwick and the A1067. NCC submitted in Oct 2008 a CIF bid to DCLG for Postwick Hub on grounds that it would facilitate housing and employment in the vicinity.

Community groups queried the NDR and Postwick Hub on a number of grounds, including the failure to adequately test a sustainable transport package option. This contributed to the DfT delaying a decision on Programme Entry by a year.

The experience of community groups in dealing with NCC at this time was one of great frustration. In seeking even basic information, we had to use Freedom of Information which slowed down information gathering. Department for Transport officials were equally frustrated by the County Council’s failure to provide information in a timely fashion, so much so that an official made monthly visits to Norwich for regular follow ups.

In December 2009, the DfT granted Programme Entry to a part NDR between A47 and the A140 on condition that NCC deliver a programme of sustainable transport measures. Programme Entry was reconfirmed for the NDR and Postwick Hub in December 2011 on the same condition.
5. NDR and the Joint Core Strategy for Norwich, Broadland and South Norfolk

In 2006, Broadland, Norwich, South Norfolk Councils and Norfolk CC formed the Greater Norwich Development Partnership (GNDP) to develop a Joint Core Strategy covering the Norwich area. Until the close of 2010, the GNDP met for four years in private and refused to publish agenda papers or minutes of meetings until public protest led to a change.

The GNDP built the NDR into the JCS and allocated substantial growth in north-east Norwich to take advantage of new pots of money for growth-related infrastructure (Growth Point, Community Infrastructure Funding, Eco-town, Community Infrastructure Levy) to help meet the large shortfall in funding for the NDR.

In a desire to contain financial costs, Norfolk CC endeavoured to enlist May Gurney into building the NDR (estimated cost of £111 million) through the County’s strategic partnership contract, without going through a competitive tendering process. Campaign groups were alerted to the situation and approached the Department for Transport who wrote to NCC (letter dated 13 September 2007) informing them that their action would be “potentially illegal”.

The GNDP generated a number of important recommendations behind closed doors without any recourse to public debate.

In 2006, the GNDP successfully applied for Growth Point status for Norwich without public consultation. Its bid for Growth Point funding for Postwick Hub among other projects was unsuccessful.

In August 2008 the GNDP announced out of the blue that it had written to the Government proposing land at Rackheath to the north-east of Norwich for an eco-town of 5,000 dwellings.

“It will be put to local people in a full public consultation next year……If the Government wants to see an eco-town and Rackheath is considered suitable, then it must fund the infrastructure to provide it and that includes the Northern Distributor Road……The planned development in Rackheath is dependent on the construction of the NDR.” (GNDP press release, 1 August 2008)

The GNDP’s technical and public consultations on the JCS in 2008/09 put forward three potential options for major growth distribution. Common to all three was a NE urban extension either side of a NDR. The Technical Consultation in August 2008 comprised 6,000 dwellings at Sprowston/Rackheath. By the time of the public consultation in
March 2009 the GNDP’s Favoured Option had been designated a ‘Growth Triangle’ of 7,000 dwellings rising to a total of at least 10,000 after 2026.

By various means, the GNDP crafted a Joint Core Strategy reliant on a NDR.

The JCS submitted to the Secretary of State for examination in March 2010 proclaimed that:

“The JCS cannot be delivered without the implementation of the Norwich Area Transportation Strategy including the Northern Distributor Road”. (2.3)

Residents in north-east Norwich formed an action group in 2008 called Stop Norwich Urbanisation (SNUB) to campaign against the Growth Triangle.

At the JCS EiP in November/December 2010, the community groups and several major developers stated that the NDR was not necessary for supporting growth and development and that smaller scale changes to A47 Postwick Interchange together with a developer funded inner orbital link road were a better solution. The Panel invited the GNDP to put forward a ‘Plan B’, but the GNDP refused to do so.

SNUB mounted a successful legal challenge against the Growth Triangle on grounds that the GNDP had failed both to carry out a proper Strategic Environmental Assessment and to consider reasonable alternatives to an urban extension in north-east Norwich. SNUB did not succeed on the second ground that the NDR had been part of the baseline JCS as the Judge ruled that time limit for challenging the second Local Transport Plan 2006-2011 had passed.

In April 2012, the Court Judgement and Order remitted the Growth Triangle and 25 hectares of employment land at Rackheath back to the GNDP for reconsideration to include the preparation of a new Sustainability Appraisal for the relevant part of Broadland.

The Inspector who examined the part JCS in 2013 reinstated the Growth Triangle, with a new policy that in the event of the Annual Monitoring Report indicating significant shortfall of housing (less than 90% of the required deliverable housing land), the Councils should produce a short focused Local Plan with the objective of identifying and allocating additional locations within the Norwich Policy Area to remedy the housing shortfall.
6. Postwick Hub promoted as part of a Business Park Development

The NCC avoided the need for compulsory purchase of land for Postwick Hub by teaming up with a development speculator, Ifield Estates Ltd, to propose a business park development (Broadland Gate) and new road capacity (Postwick Hub).

They submitted a hybrid planning application to Broadland DC in late 2008 which was advertised as a departure from the Broadland Local Plan. A revised planning application followed in August 2009, seeking to close the A47 Postwick slip road to Yarmouth Road East which had not been shown at the pre-consultation stage.

NNTAG asked GO-East whether it had obtained a legal opinion on NCC's method of obtaining planning permission for what was a County road scheme. Go-East answered 'yes' but that it was unable to release most of the advice, except to say that it was a matter for objectors to seek judicial review. NNTAG asked the Secretary of State to call in the planning application but he declined to do so.

Companies House records showed that Ifield Estates had little capital and spent less than £10,000 per annum in developing the project. A small footnote in a County Council document led to evidence that a senior NCC officer had used delegated powers to pay £177,000 to Mott MacDonald from the NCC budget for work on preparing an Environmental Assessment for Broadland Gate.

In order to implement planning permission for Postwick Hub, road orders were required for stopping up the existing side roads and creating a new slip road. A public inquiry was held into the draft A47 Postwick Interchange Side and Slip Road Orders in July 2013.

Community groups argued that the 'hub' design would force all users, apart from those going to Broadland Gate, to take a lengthy detour and that the project marked the first stage of the NDR. The promoters conceded that journeys would be longer but that the wider economic benefits would outweigh the disbenefits (as reflected in the poor Benefit Cost Ratio of minus 2.7). They maintained that the scheme was 'stand-alone' whilst at the same time connecting the NDR to the A47. The Secretaries of State have since 'made' the road orders and construction work has started.
7. 2013: Decision by the Secretary of State to Treat the NDR as 'Nationally Significant' Halfway Through a Pre-Application Consultation under the Planning Act 2008.

In December 2012 NCC’s Cabinet resolved to apply for planning consent for the NDR via the Development Consent Order process under the Planning Act 2008 in order to speed up and deal with the planning, land acquisition and side/slip roads orders in a single examination process. The Cabinet was advised by the Director of Environment, Transport and Development that following the NSIP process under Planning Act 2008 would mitigate the risk of failure of the Postwick Hub inquiry process by including Postwick Hub within the application.

From 8 July to 20 September 2013, NCC held a pre-application consultation exercise under the Planning Act 2008.

The Statement of Community Consultation justified the NDR as:

“key to the delivery of the Norwich Area Transportation Strategy (NATS). NATS outlines proposals for the development of a modern, sustainable transport system for Norwich. The NDR will bring traffic relief for communities to the north and east of Norwich, enable traffic management in the city centre and free up road space for transport improvements such as Bus Rapid Transit (i.e. higher quality, faster, more frequent and reliable bus services on key routes) and facilities for pedestrians/cyclists outlined in NATS.

The NDR will provide improved access from north Norfolk to the national trunk road network as well as access to Norwich. It is identified in the Joint Core Strategy as a piece of transport infrastructure that is required to implement NATS, deliver growth and support the economy”.

Objectors complained about the NSIP consultation pre-empting the outcome of the Postwick Hub and vice versa, the Postwick Hub inquiry pre-empting the NDR, at the public inquiry into the A47 Postwick Interchange slip and side roads which ran from 3 to 26 July 2013. The Inspector disallowed objectors from discussing the NDR and accepted the promoter’s argument that Postwick Hub was a separate scheme.

Unbeknown to the public and even to most elected members, the Director of Environment, Transport and Development at Norfolk CC had written to the Secretary of State on 25 July, the day before the inquiry close, to request a direction under section...
35 of the Act to treat NDR as development for which development consent is required. The promoters concealed the application from the inquiry.

On 19 August the Eastern Daily Press ran a front page story announcing a decision by the Secretary of State for Transport to treat the NDR as 'nationally significant' on the grounds that the road would provide a direct connection from Norwich Airport to A47-TENT; support national growth potential by directly supporting over 135ha of proposed employment growth; and improve connection to/from the Great Yarmouth Enterprise Zone and off-shore energy business.

It transpired that the Secretary of State had signed the Direction on 9 August but NCC, acting in association with Archant, publishers of the Eastern Daily Press and Evening News, had held back the decision until 19 August. The first that community groups were aware of the decision was when NNTAG and the Green Party were phoned by an Eastern Daily Press reporter to ask for views at the unusual hour of 9pm on Sunday 18 August.

The Secretary of State's reference to the Great Yarmouth Enterprise Zone in connection with the NDR was the first time such a statement had been presented to the public. The SoCC had not contained any such reference, let alone having provided supporting evidence.

The NCC had presented the NDR as a local road scheme for tackling traffic, but the Secretary of State's Direction made the road a scheme of national significance based on reasons that had not previously been raised, notably serving the off-shore energy sector covered by the Great Yarmouth Enterprise Zone.

Prepared by Denise Carlo, Norfolk & Norwich Transport Action Group
June 2014
APPENDIX 2

Failings of the consultation process for the Norwich Northern Distributor Road
(2003 until 2011 funding bid to DfT)

Provenance of this document

This appendix is based on material originally sent to the Department for Transport in October 2011 when Norfolk County Council was applying for funding via the “Development Pool Process”. The document was submitted by Campaign for Better Transport, and has been updated to reflect the situation now – the original document may be found on-line, with references, at http://www.bettertransport.org.uk/sites/default/files/research-files/nndr-consultation-oct11.pdf

Overview

Despite its local controversy, Norfolk County Council (NCC) never consulted the public specifically on the Northern Distributor Road (NDR) in the period 2003-2011 up to the submission of the best and final bid for Development Pool funding in 2011.

Instead, NCC relied in their 2011 Best and Final Bid document (BAFB) on consultations that they had undertaken for the Norfolk Area Transport Strategy (NATS) in 2003 and October 2009, and the Local Development Framework process for the Greater Norwich Development Partnership (GNDP) Joint Core Strategy (JCS).

In both the 2009 NATS consultation and the statutory Examination in Public (EiP) on the JCS, the NDR was presented as a fixed element with no alternatives given. The EiP did not, therefore, comprise a proper public consultation on the NDR.

The supposed rationale for the NDR being a base assumption in these processes was the 2003 consultation on a previous version of NATS, but this consultation presented a completely different full-length NDR without a Postwick Hub. The material changes made to the NDR between those in 2003, and those in the 2011 BAFB, were also never consulted upon.

2003 NATS consultation

The only time the public had been asked specifically if they supported an NDR (prior to the 2013 DCO pre-application consultation) was in 2003 as part of a public consultation on the Norwich Area Transport Strategy (NATS). Whilst this did not constitute a consultation specifically on the NDR, Question 1 was „would you like to see a Northern Distributor Road for Norwich?“
At this stage, very little work had been done of routes and costings of the scheme, and also any public transport interventions had not been developed. There was not enough information provided for the public to be able to make an informed response. However, a majority wished to see alternative means for dealing with the City’s transport issues.

Question 9 asked respondents to select from routes both to the west and to the east of the Airport. Appendix 21 of the consultation report showed that “150 written representations were received against building a road at all, and many of these called for alternative means of dealing with the city’s transport problems” against “95 written representations were received supporting an NDR”.

Although it is true to say that 78% of respondents supported an NDR at this time, NCC fail to mention that a much higher number (91%) supported ‘Improving Traffic Flow on the Main Roads’ (improving junctions, variable message signing etc) and ‘Improving Public Transport’ (over 90%). An equal number (75%) supported ‘soft measures’ (Education, Encouragement and Enforcement). Since this time, there has been no major development in public transport improvements, yet continuing expenditure on promoting the NDR (conservatively estimated at over £25m).

The map within this consultation indicates that the Postwick Hub had not been conceived at the time and the impression is given that the NDR would connect to the A47(E) via one of several other options including via the current Postwick junction. There had therefore also never been any public consultation on the Postwick Hub.

**Material revisions to the scheme – shorter route and new growth plans**

The road scheme in the BAFB was a half NDR, from Postwick A47(E) anti-clockwise to the A140 Norwich Airport, that has a stated primary function to bring development to the GNDP Growth Triangle.

A possible extension from A140 Norwich Airport anti-clockwise to A1067 at Hellesdon, to complete a three-quarter route (ie the DCO application), was only mooted for funding entirely from Local Authority resources. **There was never any consultation of any sort on the shorter half-NDR that was used as the basis of the BAFB funding application.**

The NDR proposed in the 2003 NATS consultation was a full Norwich northern bypass from the A47(E) anti-clockwise to A47(W) – this would have linked the proposed road to the A47 Southern by-pass in a full ring road. The ring road to the West was seen by many consultees to the far West of the City in villages such as Costessey and Taverham, as providing relief to their villages and local lanes. It therefore received considerable support on this basis. The BAFB half NDR, or a possible three-quarter NDR, could not be supported on this basis.
This was also before the development plans for a North East triangle emerged, and residents to the East and North East may also have supported the road on the basis of potential local relief. Now that North East Norwich is due for massive housing expansion, local residents are more concerned about the congestion and sprawl that it may bring, as evidenced in the DCO pre-application consultation in 2013 and the registrations to PINS in early 2014.

This change in the road’s fundamental length, network connections, purpose and impact occurred after the 2003 NATS consultation, and was driven by Norfolk County Council needing new funding justifications for the NDR. In 2008, the GNDP “consulted” on three LDF options (for their JCS), but each option comprised the Growth Triangle and the now three-quarter NDR (Postwick to A1067) as fixed elements, the only variations in consulted options being in housing numbers in specific areas outside the Growth Triangle.

There was considerable concern expressed about the GNDP consultation process at the Examination in Public (EiP) of the JCS in November 2010. A key criticism being that all the options reduced conceptually to a single option, the “NE Norwich Growth Triangle + NDR”. At the EiP itself, developers, as well as community and environmental groups, said that growth is not reliant on a NDR: some proposed smaller scale alternatives to the NDR and Postwick Hub.

DfT guidance said that councils are expected to undertake consultation on schemes where there have been significant changes or ‘material revisions’, yet NCC has failed to consult at all on the half-NDR scheme in the BAFB, whilst the three-quarter NDR has only been presented to the public for comment as a fixed element in wider strategic documents.

2009 NATS Implementation Plan – assumed shorter NDR as fixed element

NCC relied, in the BAFB, on the consultation for the NATS Implementation Plan in October 2009. This was a further opportunity for NCC to make clear the changed length, topology, purpose and impact of the NDR, and its proposed role as part of the GNDP development plan.

However, this consultation failed to question respondents specifically about the changed role of the shorter NDR, or on alternative transport strategies based on smaller scale road building and greater front-loading of public transport interventions.

Again, the NDR was presented as a fixed element that “underpins so much of the strategy”. Thus, the NDR was a pre-determined fixed element and cannot be said to have been consulted upon. Crucially the public was given no opportunity to examine or appraise any alternatives, nor were they asked any question whatever concerning the NDR. The text claims (p4) that ‘the level of improvement we can achieve
within the city centre . . . . .will depend on the delivery of the NDR, and subsequent reduction in through traffic’, without justifying this statement.

**Joint Core Strategy – NDR role undecided in 2011**

The Planning Inspectors were undecided on the role of the NDR and stated

> “the AAP [Area Action Plan] is the proper mechanism for carrying out the site-specific investigations, considering the alternatives, and undertaking the public consultations necessary to establish the point at which non-delivery of the NDR may, or may not, become a ‘showstopper’ for further development in the growth triangle

Further, they indicated that if the NDR was not built then there would be no need to review the whole GNDP JCS - only the proposals for the Growth Triangle might need to be reviewed.

NCC failed to mention these two important and material facts in their Interim Information submitted to DfT in June 2011 and in their BAFB, namely that:

- the Inspector deferred issues relating to the NDR and growth to the Area Action Plan level
- the NDR has no effect on the GNDP JCS as a whole.

The Joint Core Strategy was then under a legal challenge in the High Court on a number of points, including that the NDR was not included as a part of the Sustainability Appraisal in the JCS because it was assumed by GNDP to be a fixed element.

Further, important requirements by the Inspectors to test alternatives were also not included by NCC in the Implementation Plan for the LTP3, indicating that NCC has had ignored these requirements of the Planning Inspector.

**Local Transport Plan 3**

In the Interim Information submitted to DfT in June 2011, NCC stated that it had relied on consultations on its third Local Transport Plan (LTP3) as evidence of consulting on the NDR. However, there is no mention of the LTP3 consultation in the BAFB.

Further, the consultation process on NCC’s LTP3 breached Section 9 of the Local Transport Act 2008 (a short sub-Annex has been provided below that shows a timeline of the process indicating where it contravenes LTA2008).

Once again the NDR was presented as a fixed element of the LTP3, with no opportunity provided to comment specifically on it.
The Council also promised to consult on the NDR in a large consultation exercise on spending cuts in Autumn 2010 but did not deliver on this promise.

**Conclusion: NDR consultation has been inadequate**

Local representatives and Campaign for Better Transport do not consider that these processes comprise “adequate consultation” on the NDR itself at the point of the 2011 funding bid. We also concluded that the information on consultation in the BAFB to Government was misleading.

Prepared with agreement of Campaign for Better Transport, June 2014
ANNEX to Appendix 2: Norwich Northern Distributor Road and Norfolk County Council LTP3 consultation process

Timeline for Norfolk County Council LTP3 consultation process and its non-conformance with Section 9 of the Local Transport Act (2008)

Section 9 of the Local Transport Act (2008) - [http://www.legislation.gov.uk/ukpga/2008/26/section/9](http://www.legislation.gov.uk/ukpga/2008/26/section/9) - states (para 9 (1) (3) a & b) that a Local Transport Plan comprises policies and implementation proposals, and that this full plan must be consulted upon (para 9 (4)).

The timeline below shows that:

- A consultation on the implementation measures was suspended in July 2010 and never resumed.
- The LTP3 Implementation Plan was not provided to consultees during a hasty Consultation between 21st January 2011 and 25th February 2011.
- The Implementation Plan was only made available to consultees between for March 4th and March 14th 'for comment'.

This process is not legitimate as neither the proposed implementation measures, nor the draft Implementation Plan, were subject to proper consultation which is contrary to the Local Government Act (2008), section 9. References are given to the document trail.

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>6th July 2010</td>
<td>Norfolk County Council writes to stakeholders to advise them that they are suspending consultation on ‘measures for the Implementation Plan’ (<a href="http://tinyurl.com/ndrltp3-1">http://tinyurl.com/ndrltp3-1</a>). This consultation was never resumed.</td>
</tr>
<tr>
<td>Late December 2010</td>
<td>Pre-consultation draft of LTP3 document circulated to Norfolk councillors</td>
</tr>
<tr>
<td>10th January 2011</td>
<td>Councillor Andrew Boswell writes to Norfolk Cabinet member for Planning and Transportation, Councillor Graham Plant, raising concerns that the LTP3 Implementation Plan is not available for the consultation, as it is still being drafted, and that councillors and stakeholders have no opportunity to comment on it before it going to Full Council and being submitted to DfT. (<a href="http://tinyurl.com/ndrltp3-2">http://tinyurl.com/ndrltp3-2</a>)</td>
</tr>
<tr>
<td>11th January 2011</td>
<td>Norfolk Cabinet member for Planning and Transportation, Councillor Graham Plant, writes to Councillor Andrew Boswell confirming that the Implementation Plan will not be available for the consultation. The intention is to have a draft available for Council Members early in February, prior to sign off in March. (<a href="http://tinyurl.com/ndrltp3-2">http://tinyurl.com/ndrltp3-2</a>)</td>
</tr>
<tr>
<td>24th January 2011</td>
<td>Council officers send out email to stakeholders and councillors advising of a consultation to run from 21 January to 25 February 2011 on draft</td>
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<td>Date</td>
<td>Event</td>
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<td>2011 strategy and Sustainability Appraisal only.</td>
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<tr>
<td>10th February 2011</td>
<td>Council officers send out email to Councillors only with draft</td>
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<td></td>
<td>Implementation Plan for comment by Feb 21st 2011</td>
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<td></td>
<td><a href="http://tinyurl.com/ndrltp3-3a">http://tinyurl.com/ndrltp3-3a</a></td>
</tr>
<tr>
<td>25th February 2011</td>
<td>The Planning Inspectorate declare GNDP JCS 'sound' after Inspectors'</td>
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<tr>
<td></td>
<td>amendments to the plan, requiring the testing of interim and/or</td>
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<td></td>
<td>alternatives to the NDR through the Area Action Plan for the north-</td>
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<td></td>
<td>east growth area (directly affecting the NDR and Postwick Hub).</td>
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<tr>
<td>4th March 2011</td>
<td>IP is issued to stakeholders for comment without any revisions to</td>
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<td></td>
<td>reflect the Inspectors’ requirement for the testing of interim and/or</td>
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<tr>
<td></td>
<td>alternatives to the NDR through the Area Action Plan for the north-</td>
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<tr>
<td></td>
<td>east growth area.</td>
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<tr>
<td>4th March 2011</td>
<td>Council officers formally notify stakeholders that the IP is</td>
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<td></td>
<td>available for comment on the Internet with a deadline of March 14th</td>
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<tr>
<td></td>
<td>for comment.</td>
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<tr>
<td>7th March 2011</td>
<td>Councillor Richard Bearman asks Cabinet ‘on which dates were the LTP3</td>
</tr>
<tr>
<td></td>
<td>document and the draft Implementation Plan document made available</td>
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<td></td>
<td>to statutory consultees’. Councillor Graham Plant responds ‘Your</td>
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<td></td>
<td>question prompted us to alert stakeholders of that fact, and we</td>
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<td></td>
<td>have given them until 14 March to comment’. In other words, a</td>
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<td></td>
<td>consultation period of less than 2 weeks. <a href="http://tinyurl.com/ndrltp3-4">http://tinyurl.com/ndrltp3-4</a></td>
</tr>
<tr>
<td>28th March 2011</td>
<td>LTP3 passes through Full Council meeting and subsequently submitted</td>
</tr>
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<td></td>
<td>to DfT.</td>
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</tbody>
</table>
APPENDIX 3

Illegitimacy of the NSIP pre-application consultation on Norwich Northern Distributor Road (Summer 2013)

Provenance of this document

This appendix is based on material originally sent to Norfolk County Council (NCC) on September 20th 2013 by Norwich Green Party in response to NCC’s NSIP pre-application consultation in summer 2013. Although an automated email response was sent by NCC acknowledging receipt of the consultation response, the Council then mislaid the response and did not present the material to the NCC Decision makers at subsequent Cabinet meetings, or to the Planning Inspectorate as part of the DCO application section on consultation. Some elements of the material presented were unique, and not presented by other respondents to the consultation. The details have been updated and extended.

Author
This Norwich Green Party appendix is authored by Norfolk County Councillor Andrew Boswell who also wrote the originally NSIP pre-application consultation response.

1 Overview

1 The NSIP pre-application consultation on Norwich Northern Distributor Road (Summer 2013) was illegitimate and profoundly flawed.

2 For several weeks in the middle of the consultation, the scheme had no legal status under the Planning Act 2008 to require a Development Consent order process despite that being the purported reason for the consultation.

3 The public have been fundamentally prejudiced because they were unreasonably asked to respond to a consultation on a scheme whose legal basis and rationale both changed several times during the consultation period, and had no legal basis for part of the consultation period.

4 The situation is so complex that we have provided a timeline and table below to summarise the four different rationales and consultation phases during the July 8th – September 20th 2013 period. At each phase, we indicate the legal situation prevailing, and also related concerns about inadequate public engagement and non-compliance with the UNECE Aarhus Convention.
2 Consultation Timeline

5 The consultation documents, originally published on June 24th 2013 proposed the NDR to be an NSIP under legislation which was removed from the Statute by a new statutory instrument going onto the Statute book on July 25th. The legitimacy of the consultation ended on this date.

2.1 Phase 1: A local authority road scheme justified on local transport issues

6 Crucially, any member of the public responding during the period July 8th–July 25th would have done so on an NDR that was justified in Section 3.2.1.13, NDR Preliminary Environmental Information Report (PIER), June 2013, by its "primary purpose [of the NDR] is thus to improve accessibility to, from and within the northern and eastern parts of the greater Norwich urban area and the towns and villages to the north of the city."

7 That is, a local authority road scheme with local traffic justifications.

8 The legal basis of the consultation at this stage was that the NDR was a Nationally Significant Infrastructure Project (NSIP) under section 22(2) of PA2008 (as it then was).

9 NCC had decided to promote the NDR as an NSIP in December 2012. This was possible because, although it was a local authority road scheme, it linked to the national trunk road system via the proposed Postwick Hub A47(T) junction.

10 Under the PA2008 section 31, development consent is required for a scheme designated an NSIP.

2.2 Phase 2: No legal NSIP designation or basis, and outside of DCO regime/process

11 On July 25th, a statutory instrument in parliament removed the legal basis of the NSIP designation, made by NCC, under section 22 of PA2008.

12 At this date, the NDR crucially also no longer had the status of a project that was subject to the Development Consent Order (DCO) regime under the provisions of Parts 5 and 6 of the PA2008 (as amended) ie: section 31 of PA2008 no longer applied.

13 In fact, the NDR at the date was taken outside the Provisions of the PA 2008, as is acknowledged in a letter from NCC Director of Environment, Transport and Development to the Rt Hon Patrick McLoughlin MP, Secretary of State, Department for Transport on July 25th 2013 in which it is stated:
“The NDR was within the definition of a NSIP contained in section 22 of the PA 2008. However now that The Highway and Railway (Nationally Significant Infrastructure Project) Order 2013 has been brought into force, with effect from 25 July 2013, this takes the NDR outside of the provisions of the PA 2008.”

(Full letter supplied as Annex)

14 So from this date **July 25**\textsuperscript{th}, the consultation continued as a pre-application consultation for a Development Consent Order process although the scheme itself was now outside of the DCO process, and indeed the PA 2008. This made nonsense of the purported purpose of the consultation on the NDR as “an NSIP project for which a Development Consent Order (DCO) is necessary under the Planning Act 2008”.

15 As far as public engagement by NCC, the SOCC contains the following statement:

“As the NDR is an NSIP, NCC intends to apply for development consent to construct, operate and maintain the NDR. “

16 After July 25\textsuperscript{th}, NCC had no legal basis for statements in the SOCC saying that i) the NDR is an NSIP, and ii) they were consulting on applying for development consent (DCO).

17 The SOCC as the primary guidance document for the public making responses was both wrong and misleading after this date.

2.3 **Phase 3 A : Entirely new legal basis – not an NSIP**

18 On August 9\textsuperscript{th} 2013, the SoS made a direction under section 35(1)(d) of PA 2008 that the NDR was a project of *national significance* and was to be treated as if a DCO was required.

19 section 35(1)(d) of PA 2008 states:

> “the Secretary of State thinks that the project is of national significance, either by itself or when considered with one or more other projects or proposed projects in the same field. ”

20 The SoS Direction did not restate the NDR as an NSIP. The legal entity, NSIP, is a development project that falls within Part 3 of PA 2008 – this includes section 22 under which the NDR had previously been designated an NSIP. The language of the
SoS - a project of national significance – applies significance under some other context ie: the “thinking” of the SoS.

21 Although the SoS designated the scheme nationally significant on August 9th, the public were not informed until August 19th.

2.4 Phase 3 B: SoS creates additional economic development justifications spanning a much wider geographical area

22 With regard to public engagement, it was only from August 19th that the public was informed of this new, entirely different legal basis.

23 The SoS’s thinking process for national significance designation under section 35 of PA2008 created additional rationales for the scheme – primarily that it would connect Norwich Airport with the A47 TEN-T and Great Yarmouth Enterprise Zone. These and other new rationales were given in the Secretary of State’s S35 Direction of August 9th.

24 However, the public have a right to expect consistency and clarity on a consultation to which they are applying. The SOCC contains the following:

“What We Will Consult On

The consultations will seek views on:

- the principle of and need for the NDR - in summary the NDR is required to supplement the historic pattern of radial routes serving the northern part of Norwich, which is inadequate to serve the diverse pattern of movements generated by the growing modern city, limits its economic potential and gives rise to inappropriate levels of traffic in residential areas and rural roads,
- as part of consulting on the principle of the NDR, NCC will consider responses on alternative ways of meeting the need,
- the impacts of the NDR,
- the detailed proposals for the NDR including, alignment, junctions, design details, mitigation measures and an alternative option of a single carriageway section of the road at its far western end,
- the route of the NDR.”

25 For the public, from August 19th, the principle and need of the NDR had changed substantively by the SoS Direction, but they had little time or information to find out the detail and implications. Previously promoted as a local authority road scheme to help traffic issues around Norwich, the scheme was now extended to connect traffic
to a transnational network (TEN-T), and to connect to economic zones removed from
Norwich (ie Great Yarmouth).

26 Under the designation, the impacts of the scheme were radically altered too. The
wider connection to Great Yarmouth impacts the transport network throughout East
Norfolk, particularly the A47 corridor that goes through the Broads National Park.

27 Further although NCC said that they will consider alternatives to the scheme (in the
SOCC above), they actually at no stage provided any for the public to assess.

28 All of the public exhibitions on the NDR took place before 9th August 2013, so the
public had no easy opportunity to seek clarification via that forum.

29 From August 19th, those members of the public with an extremely acute legal
awareness might have understood that the scheme was subject again to the
development consent process, under Parts 5 and 6 of PA 2008, given the public
announcement section 35 direction.

2.5 Phase 4: Further change of status as NCC agrees to make assessment of changing road
from a “three-quarter NDR” to “full NDR” – further changes to principle, need, impacts,
alternatives for the public just 4 days before consultation close

30 Further, following a motion passed at Norfolk County Council on September 16th to
carry out a feasibility study into extending the NDR westwards across SSSI and SAC
sites in the Wensum valley, any reasonable member of the public would have
additional reasons for responding to the consultation. This was just 4 days before the
consultation closed.

31 In particular, the principle of the road was extended again, in the public eye, to
include the function of a full ring road; the impacts were extended to the Wensum
valley and to numerous villages on the South Norfolk/Breckland district borders.

32 These points are summarised in the table below.
**CONSULTATION TIMELINE**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
<th>Consultation area</th>
<th>Areas with attributable impact of the Scheme requiring consultation</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 24th</td>
<td>SOCC published</td>
<td>North Norwich and a ring of villages beyond</td>
<td>Norwich City centre, south Norfolk and South Norfolk part of the Norwich Policy Area. Breckland villages impacted by a three quarter NDR.</td>
</tr>
<tr>
<td>July 8th–July 24th</td>
<td>Phase 1: Consultation starts under 'old' PA2008</td>
<td>unchanged</td>
<td>ditto</td>
</tr>
<tr>
<td>July 25th–Aug 9th</td>
<td>Phase 2 The legal basis for NSIP designation removed by statutory instrument in Parliament. No legal basis for road being a project under the Development Consent Order process.</td>
<td>unchanged</td>
<td>ditto</td>
</tr>
<tr>
<td>August 10th–August 19th</td>
<td>Made <em>nationally significant</em> by SoS direction under S35 Planning Act 2008 BUT Public not informed.</td>
<td>unchanged</td>
<td>East Norfolk including whole of Norwich Policy Area, the A47 corridor and Great Yarmouth</td>
</tr>
<tr>
<td>August 19th–Sept 16th</td>
<td>Phase 3: No updates to consultation documents despite change of legal basis, and substantive changes to principle, need, impacts, alternatives of the scheme.</td>
<td>unchanged</td>
<td>East Norfolk including whole of Norwich Policy Area, the A47 corridor and Great Yarmouth</td>
</tr>
<tr>
<td>Sept 16th–Sept 20th</td>
<td>Phase 4: A feasibility study into extending the NDR (to full NDR) agreed. This changed the intended policy position of Norfolk County Council as to the extent of the Scheme.</td>
<td>unchanged</td>
<td>Above plus SSSI and SAC sites in Wensum Valley to West of Norwich¹.</td>
</tr>
</tbody>
</table>

¹ These sites may be technically within or outside the Norwich Policy Area depending on different proposed routes for NDR extension.
3 Main points of illegitimacy

33 The consultation continued between July 25th and August 9th when there was no legal status for it as a scheme under the Development Consent Order process, or the Planning Act 2008 itself. In essence, during these dates, there was nothing to consult on.

34 Although, the scheme was reconfigured into the Development Consent Order process on August 9th, we do not accept that the consultation was somehow re-legitimised at this point.

35 The only logical option on July 25th when the scheme came out of the DCO process was to cancel the consultation and restart it later so that a new consultation could be run entirely under section 35 of the Planning Act with consistent principle, need, impacts, and alternatives in line with the SoS Direction. This is the only option that would not have prejudiced the public.

36 The SOCC was wrong and misleading from July 25th onwards as the project was a no longer a legal NSIP after that date.

37 There were four possible rationales and phases within the consultation period, during which a member of the public might have responded. During each phase, any member of the public would have been replying to a different consultation. Therefore, there were actually four consultations of the public.

38 This process has been, first, very confusing to the public, and, second, means that the consultation could not be evaluated by Norfolk County Council in any rational and consistent way. It is unacceptable on both counts.

39 A further key point is that as the above timeline evolved, the public were not informed. This is particularly concerning at the point that additional rationales, including economic development models for the regions on which there had been no public engagement by decision makers, were added to the scheme by central Government on August 10th 2013. Whilst this point applies to what historically
happened, it is academic in the sense that the consultation should have been abandoned on July 25th in any case.

4  NCC legal opinion (3rd October 2013)

40 At the apparent email request from PINS on October 2nd 2013, Norfolk County Council provided on October 3rd 2013 a legal opinion on the validity of the pre-application consultation at Appendix D within Application 5.1 Consultation Report Appendices A to J.

41 This purports to show that the consultation followed the regulatory requirements. Its reasoning is flawed in several respects

4.1 The July 25th-August 9th period: the scheme, and consultation, were legally outside the DCO process

42 At bullet 44, the Counsel’s opinion attempts to construct an argument that the project (and, therefore, the pre-application consultation) was still subject to the procedures of the PA2008 between July 25th and August 9th because NCC made two requests to the SoS for a section 35 direction (one on July 24th, and once on July 25th – see Annex for the latter letter.

43 It is wishful thinking to suggest that the “intention” to restore the status of the project to one subject to the DCO process is the same as it actually being legally subject the DCO process. As pointed out above, Norfolk County Council themselves said that this has taken “the NDR outside of the provisions of the PA 2008”. We are doubtful, then, that the High Court could uphold this proposition.

44 It is further wishful thinking to suggest that sending one or more letters to the SoS requesting that he makes a section 35 PA 2008 direction accrues instantly the same legal status as actually having such a direction.

45 For this period when the project was outside the DCO process and the Planning Act 2008, the consultation must also have been illegitimate and in breach of the Planning Act 2008.

4.2 The substantive changes of the section 35 PA 2008 direction

46 At bullet point 45, the Counsel’s opinion suggests that the changes in the project status are only a matter of the “form” of the process.

47 However, it is abundantly clear to objectors that the change from a section 22(2) of PA2008 NSIP to a section 35 PA 2008 direction involved substantive changes or
extensions to the project in terms of principle, need, impacts, and alternatives to the scheme. These are outlined above.

48 The public could reasonably expect that the basis for the application in the SOCC and PIER, would align with any reasons given by the SoS for it to be nationally significant.

49 The changes from the project being a local authority road scheme to one justified in terms regional and national economic expansion models are very substantive, and objectors have been prejudiced by this information only being available between August 19th and September 20th, and not being available in the SOCC.

50 We again note that there were no public exhibitions after August 9th.

4.3 Legal opinion addresses the wrong question

51 Bullet 15 of the legal opinion surmises what the concern about consultation legitimacy might be. It concludes that it might that the pre-application consultation activities between June 25th and August 8th 2013, the first part of the consultation, might be invalid (or cannot be relied upon) because the NDR became subject of a PA 2008 section 35 directive on August 9th 2013.

52 However, our position is, temporarily, the opposite. That is, the consultation was invalid at all stages after July 25th when it fell out of the DCO process, and the subsequent device to resurrect the DCO status (the section 35 Directive) changed the substantive nature of the proposals before the public.

53 This position is consistent with what the public would naturally expect. The public have the reasonable expectation to be provided with information at the start of a consultation, and a time period for the consultation. They do not expect substantive changes in the status of the project or information to change after that start date during the consultation period. Contrary to this natural and reasonable expectation, the project and information changed substantively, and objectors have been prejudiced, and will seek all possible avenues of legal redress.

5 The consultation area has been wrong on all four consultations

5.1 Phase 1

54 The main consultation area was limited to North Norwich and a ring of villages beyond. This is incorrect when Statement of Community Consultation (SoCC) justifies the NDR as removing through traffic from Norwich city centre and
delivering the Norwich Area Transportation Strategy (NATS) which covers the entire Norwich Policy Area.

55 Even under the first consultation rationale, the consultation area should have included all of Norwich including Norwich City centre and south Norwich, and the South Norfolk part of the Norwich Policy Area, and also villages in Breckland which are noted as having significant traffic impacts in the Local Impact Report.

56 I represent the Norwich Green Party who hold all City Council seats in 5 wards in a band of across Norwich, from west to east: Wensum, Nelson, Town Close, Mancroft and Thorpe Hamlet. All the residents in these wards have been excluded from the consultation area, despite their wards being in area that will be affected by the NDR, and having consistently voted for Councillors opposed to the NDR. I object strongly, on behalf of the 19 Green Party council seats based in these wards, that our constituents have been disenfranchised.

57 The NCC Traffic Flow Map (C. Drawing MMD_233906-DT-0882: Percentage of Change in Traffic Flow (AADT) 2032” in the Norfolk County Council document “6.2 Environmental Statement: Volume II: Chapter 12. Effects on All Travellers) shows changes to traffic flows including “major increases” across the City and on the A47 Southern A47 by-pass. Yet none of these areas were included in the consultation area.
58 The above map shows the consultation area from the SOCC (within the red line), and the two areas highlighted above which should have been the minimum of additional consultation areas from the outset. The logical consultation area at this first consultation phase should have been the entire Norwich Policy Area which includes parts of South Norfolk (along A47, A11 and other radial routes out of Norwich) not shown, and the Breckland villages in the area indicated.

59 Given the City is the major population location the actual number of people who should have been and who were not consulted is in much greater proportion than the map suggests.

5.2 Phase 3 and 4

60 As described above, these phases added additional rationales for the Scheme including justifying it as nationally important project in terms of linking it to a transnational (TEN-T) major highway network, and to new regional economic development models including Great Yarmouth.

61 We note above that the consultation became invalid on July 25th 2013. However, even if the consultation after that was somehow valid, then the consultation area should have been much larger. This is shown on the consultation time line table above. By Sept 20th and the fourth consultation rationale, the area should have included the whole of East Norfolk including whole of Norwich Policy Area, the A47 corridor and Great Yarmouth, and also villages to the West of Norwich relating any new route over the Wensum valley.

6 Lack of democratic process in consultation preparation

62 Norfolk County Council consulted Norwich City Council on the draft Statement of Community involvement. However, Norwich City councillors were not consulted themselves as part of this. Instead the officers submitted a response themselves.

63 Had the 15 Green Party councillors been consulted, or even notified that the draft consultation document existed, we would have highlighted the need for the extension of the limited consultation area to include the city centre and south Norwich, and South Norfolk parts of the Norwich Policy Area.

64 Once again, in Norfolk, councillors have been by-passed by officers in a matter which is of considerable concern. A complaint was made to the relevant Norwich City Council officer in retrospect, but this has not resulted in Norwich councillors being properly involved.
65 Further, discussion at Norwich City Council has been limited to comments on the consultation from the Cabinet. The consultation has not been tabled for Full City Council, thereby denying a significant number of Norwich City councillors the chance to debate the issue and to reflect the views of their residents. This is further disenfranchisement of residents in the Wensum, Nelson, Town Close, Mancroft and Thorpe Hamlet, and other City wards such as Eaton and Lakenham.

7 The consultation is not compliant with the Aarhus Convention

66 Citizens over wide area of Norfolk have been denied their rights to access to information and to participation in decision making under the UN Aarhus Convention (see extracts below) to which the UK Government is a signatory.

67 The Aarhus Convention also requires *a transparent and fair framework* for public engagement. The substantive change of the project and its status mid consultation is both untransparent and unfair, and most likely a contravention of the Convention.

68 The Aarhus Convention, signed by the UK Government establishes a legal requirement for public participation in decisions (Articles 6 - 8) affecting the environment and quality of life. The Convention states that in drafting rules and regulations governments shall strive to ‘promote effective public participation at the appropriate stage, and while options are still open’.

69 As shown on the above timeline, the **third** [August 19th - Sept 16th] and **fourth** [Sept 16th - Sept 20th] phases of this consultation introduced additional rationales and scope. Yet no further documentation was made available to the public. For example, a 25 page document “Norwich Northern Distributor Road – an infrastructure project of national significance” was sent to Government on July 25th by Norfolk County Council. This introduced significant new rationales related to the Scheme. None of this information was made available to the Public as part of the consultation.

70 AARHUS CONVENTION extracts:

**Article 7 extract:**
“Each Party shall make appropriate practical and/or other provision for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public”.

**Article 8 extract:**
“Each Party shall strive to promote effective public participation at an appropriate stage, and while options are still open, during the preparation by public authorities of
executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment.”

8 The consultation should have been re-run

71 Given all of the above, we stated on September 20\textsuperscript{th} 2013 that the consultation should be re-run on a clear basis with consistent rationale for the Scheme.

72 The process has been flawed since July 25\textsuperscript{th} 2013, including the subsequent acceptance of the application by PINS in February 2014.

ANNEX to Appendix 3 (next page)
via e-mail and post

The Rt Hon Patrick McLoughlin MP
Secretary of State
Department for Transport
Great Minster House
76 Marsham Street
London SW1P 4DR

Dear Secretary of State

Norwich Northern Distributor Road project – Qualifying Submission under Section 35 of the Planning Act 2008

I wish to formally request you to exercise your power under section 35 of the Planning Act 2008 (PA 2008) to direct that the Norwich Northern Distributor Road (NDR) is a Nationally Significant Infrastructure Project (NSIP), and that it and any matter associated with it is to be treated as development for which a Development Consent Order (DCO) is required.

The NDR was within the definition of a NSIP contained in section 22 of the PA 2008. However now that The Highway and Railway (Nationally Significant Infrastructure Project) Order 2013 has been brought into force, with effect from 25 July 2013, this takes the NDR outside of the provisions of the PA 2008.

The attached note sets out in detail Norfolk County Council’s assessment of the argument for designating the NDR as a NSIP and for progressing it through the DCO route.

Norwich is the largest economy in the east of England, is a global centre for key growth sectors including the sciences and advanced engineering, is a recognised Growth Point and, as Greater Norwich, has been invited by Government to negotiate a City Deal. The NDR, which would link the Trans European Network – Transport and the national Strategic Road Network to Norwich International Airport to large areas of existing and potential employment and residential development, would enable significant levels of growth in both Greater Norwich and East Anglia, which will contribute to the national growth objective and to the rebalancing of the economy.

We have already progressed through part of the relevant pre-application procedures, with a view to submitting an application for a DCO in November 2013. We are concerned that the delay which would be engendered if another authorisation route now had to be followed would postpone the opening up of very significant growth potential, and its contribution to the national economic recovery.

I look forward to a positive response to our request. In the meantime, please do not hesitate to contact me if you require any further information.

Yours sincerely

Mike Jackson
Director of Environment, Transport and Environment

NCC contact number: 0344 800 8020
Textphone: 0344 800 8011
Email: mike.jackson@norfolk.gov.uk

25 July 2013
C. Conclusions as to fact

1. I have been unable to arrive at a definitive view as to what happened.

Receipt of the emails

2. I conclude on the balance of probabilities that the three emailed submissions were received by the Council’s email server. I find the alternative – that receipts were ‘spoofed’ by the complainants or that the complainants submitted emails which they then managed to recall without the council’s knowledge – far-fetched.

Logging of the emails

3. I conclude that it is unlikely that the emails were ever logged by the NDR team, for two reasons.

   a. The print logs show they were never printed by the logging officers. Printing normally took place at or shortly after the point of logging.

   b. To ‘invisibly’ remove a submission from the spreadsheet log would have required amendment also of paper files and electronic records. Because the logs, the paper files and the electronic records were sequentially numbered, this would have required significant effort and risk of detection. Anyone amending the record would have had to renumber each email received after the deleted email in the spreadsheet; copy the emails back into the mailbox in order to change the email title; save the emails under a different name; and print new paper copies and insert them in the file.

Loss or deletion of the emails

4. I have no evidence of a common cause for the loss of the three emails and there may be different explanations for each.

5. I have contemplated three possible motives for deliberate deletion of an email but have found no evidence for any of them. The possible motives are:
a. that the NDR team deleted one or more emails in order to somehow improve the prospects of the NDR being approved;

b. that a disaffected member of staff deleted one or more emails in order to damage either the case for the NDR or the reputation of the council;

c. that a member of staff with access to the submissions was subverted by an outsider, hoping to either increase the likelihood of the NDR being built or to damage its prospects.

7. I find (a) implausible.

   • It would have been obvious to anyone in a reasonably senior position contemplating such a course that it would make matters worse for the NDR proponents (indeed loss of the emails has, predictably, generated bad publicity for the council and the complainants have made the Planning Inspectorate aware of the content of their submissions).

   • I have also noted that, according to the planning inspectorate, the missing emails did not raise any unique issues – so again the benefit to a senior member of the team in deleting them is not obvious.

   • Similarly it seems unlikely that a junior member of staff would have been motivated to take such a risky step off their own bat.

8. Many people had access to the mailbox and the shared drive and so (b) and (c) cannot be ruled out.

9. The alternative explanation is that one or more of the emails was either inadvertently deleted – by a person or some automated process - or put aside to be dealt with later – perhaps because of their complexity.

10. I questioned why the lack of submissions from these prominent opponents of the scheme had not raised concerns at the time. It was clear that the lack of submissions from the Green Party and SNUB at least had been noticed – though perhaps not the lack of a submission from the CPRE – but that those managing the consultation from day to day had not considered that they should make contact with the protesters and ask why no submission had been received.

Effect of the omission of the emails from the submission to the planning inspectorate

11. It is common ground that the disputed emails were not included in the submission to the planning inspectorate.
APPENDIX 5

Report from Professor John Greenaway, dated and submitted to Planning Inspector 27 January 2014

Norwich Northern Distributor Road - Assessment of Section 47 and Section 48 Consultation Responses

I am an Emeritus Professor of Politics at the University of East Anglia having 40 years’ experience of analysing and coding large research data sets, both quantitative and qualitative. I have been asked by the Norwich and Norfolk Transport Action Group to examine the section 47 and 48 public responses to the NDR public consultation exercise held in the Summer of 2013 and to comment upon Norfolk County Council’s presentation and analysis of these findings.

The data

I spent three days examining the data and have analysed and coded the responses from (a) the official paper questionnaires (497); (b) the on line responses (563); (c) emails (339); (d) letters (76).

This is a rich data set, both in terms of volume of responses and the extent and quality of the written comments returned. Regarding the latter, it is clear that the majority of the respondents have taken the trouble to write quite fully concerning their views and that, in all but a handful of instances, they have written in their own words. The responses provide a good view of public opinion on the matter.

Incidentally I would point out that the large number of blank responses (many obviously generated by some technical problems with the on-line response mechanisms) need to be deducted from the total number of responses, otherwise the percentages of opposition/support will be distorted.

Failure of the County’s report to clearly identify support / opposition to the scheme

The NDR is a very controversial scheme with strong views being expressed, both in support of and opposition to the road in principle. The purpose of undertaking such an extensive public consultation must be to gauge the extent of public support for the particular scheme, as well as getting feedback on particular design issues and details.
I am concerned that the County’s analysis in its report does not clearly address the extent of ‘support’ and ‘opposition’ to the proposals. All responses need to be coded into those supporting, opposing and indeterminate.

The report gives the impression that the 460 comments classified as ‘No Need’ are the only category objecting to the scheme. Yet the vast majority of those highlighted in para 5.4.3. (as concerned about the NDR leading to development) cite this as one of their grounds for opposition to the NDR as a whole, pointing to destruction of the environment and countryside. Similarly the 25 indicated in 5.4.4. (as presenting alternatives) do so because they oppose the road and want investment in public transport and the like. All this is evident in the paper questionnaires where it is common for 2 respondents to write in opposition to the road whilst not ticking the need / no need box. Examples: PQ411; PQ433; PQ456A. It is not at all clear what criteria or on what basis the Council has enumerated this category.

In other words the category the council gives of those saying ‘no need’ does not reflect the number of those opposing the scheme.

**My own coding analysis of the public responses and the level of opposition to the scheme**

On the basis of my own careful coding of all the responses, I find that there to be only 224 responses unequivocally supporting the scheme. Against this I find no less than 635 clearly expressing opposition to the NDR scheme: (170 paper questionnaires; 287 on line responses; 145 emails and 33 letters). Of the remaining half of the responses, a large number only comment on details of the scheme (closure of side roads, design of junctions etc.) and must be classed as indeterminate. However, a further sizeable number (around 250) express clear and grave concerns about the effects of the proposed scheme, although they do not go so far as to express unequivocal opposition. Many in this last group come from the category who thinks that the failure to complete to the A47 will be highly detrimental.

**The County’s breakdown into categories such as ‘need’ ‘development’ ‘alternatives’ obfuscates the broad issues of support and opposition**

The picture of public opinion on the broad lines of support or opposition to the scheme is obfuscated by the County’s decision to breakdown responses into a large number categories such as ‘need’, ‘development’, ‘alternatives’. It is particularly misleading to organise views in a ‘hierarchy’ of views as the Council does in its Appendix S Summary of Section 47 and Section 48 Consultation responses (p3 – 9) where the ‘not need’
category is organised under the general heading of ‘money could be spent elsewhere’ with subordinate categories such as ‘sustainable public transport’.

**Failure properly to analyse or code the category of those arguing ‘Need for A1067 to A47 link’**

This category contains strikingly different attitudes towards support for the proposed scheme. Some in this category show by their comments that they support the scheme although they would prefer a link. Examples of this are: PQ300 who ticks ‘need’ for road but writes ‘people living in Taverham Costessey area need a road built from proposed NDR to A47. This needs to be sorted out before work begins on the NDR.’; PQ432 ticks ‘need’ but writes that not to join up to A47 ‘is missing the point’; SM13 says NDR would be an asset but ‘best to do it all in one bit’. Others, however, clearly state their opposition to the proposal, claiming that a ‘3/4s’ road would be worse than the existing status quo. Examples of this are: PQ309 ticks ‘no need box’ on grounds ‘incomplete’ route; PQ344 says essential for NDR to extend to A47 ‘As the planned route is in at present I am not in favour of the NDR going ahead at all’; PQ399 ‘fail to understand how Norfolk County Council can agree to this (Road to Nowhere) If this road is built the traffic volume will increase in Taverham, Drayton and Hellesdon and will make live [sic] hell for us …I question as to if this road is needed. 86 million is a vast amount of money for a road with no correct finish.’ Yet a third category clearly voice grave concerns about the effects of not providing the link – e.g. the generation of extra traffic in lanes around Taverham, Ringland etc - but do not go so far as to express a clear-cut opposition to the scheme e.g SM17; SM45; SM47; SM59; SM98; SM117. These three categories are not easy to code vis a vis support / opposition. My overall conclusion here is that categories two and three together form an overwhelming majority of responses here - in other words deep scepticism about the utility of the adopted scheme.

**Concern about the Council’s presentation of the reasons given for those saying there is ‘no need’**

A further concern I have relates to the Council’s presentation of the reasons for those not wanting the road in its report para.5.4.2. It says that ‘the main reason for this view was that the money could be spent elsewhere’. This is not at all my reading of the responses. Analysis of this category clearly shows that the dominant reason is that this scheme would cause serious environmental damage under the following categories: destruction of countryside and agricultural land along with damage to landscape; air, noise and light pollution; increased carbon emissions and contribution to global warming; reduction in quality of life; urbanisation of tranquil country areas. Other reasons are: need for investment in sustainable transport schemes based around public
transport, cycling, walking etc.; increase in congestion; 3/4s only scheme; cost. Cost or ‘waste of money’ or need for investment elsewhere’ may be mentioned in responses, but they are rarely the core reason for the objection.

**Conclusions**
In summary I conclude that the County Council’s report seriously underestimates and plays down the striking public opposition to the adopted NDR scheme. The consultation exercise indeed reveals that opponents to the scheme as a whole outnumber its supporters by an overwhelming number. The Council’s report also plays down the widespread opinion that this scheme would produce very serious environmental damage.

**Recommendation**
I recommend that you call for a full copy of all the detailed responses and produce your own independent analysis of the findings. I should be happy to provide you with a full list of the numbers of respondents I have coded as ‘opposed’ to the scheme, should you find that helpful.

*Prepared by Professor John Greenaway, Emeritus Professor of Politics, University of East Anglia*
*January 2014*