The Planning Inspectorate

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Mr Simon Wright MP
Constituency Office
2 Douro Place
Norwich
Norfolk
NR2 4BG

Your Ref:

Our Ref: TR010015

Date: 03 June 2014

Dear Mr Wright,

Application by Norfolk County Council for an Order Granting Development Consent for the Norwich Northern Distributor Road (NDR)

Thank you for your letter dated 12 May 2014 regarding the above nationally significant infrastructure project application and the attached correspondence relating to the handling of the application by Norfolk County Council.

With regard to the correspondence between CPRE Norfolk and the Leader of the Norfolk Green Party Group and Norfolk County Council the issues concerned have been raised through the Council's established complaints procedure. I consider that these on-going discussions are a matter for the parties directly concerned. Nevertheless, Mr Nicholas Coombes, the Case Manager at the Planning Inspectorate for this application, responded to Ms Katy Jones of CPRE Norfolk's letter of 3 April 2014 on 11 April. I enclose a copy of that letter. That response can also be viewed using this link:

http://infrastructure.planningportal.gov.uk/projects/eastern/norwich-northern-distributor-road-ndr/?ipcsection=advice&ipcadvice=7b2db19cd4

The Planning Inspectorate was very disappointed that the statutory consultation responses of CPRE Norfolk, SNUB and the Norfolk Green Party had not been specifically considered in the applicant's consultation report. Nevertheless, having obtained the missing submissions and after very careful consideration of the issues raised in these omitted submissions, we concluded that the issues had been raised by others and as a result the applicant did have regard to the points raised. On that basis we accepted the application for examination.

With respect to the joint letter submitted by CPRE Norfolk, Stop Norwich Urbanisation (SNUB) and the Norfolk Green Party Group to Sir Mike Pitt, Chief Executive of the Planning Inspectorate, dated 23 April 2014, I am aware of this letter and its contents. In the Chief Executive's absence, I responded to Ms Jones on his behalf on 8 May 2014, addressing the individual points in turn. I also enclose a copy of that letter. The

response can also be viewed by using the link below:

http://infrastructure.planningportal.gov.uk/projects/eastern/norwich-northern-distributor-road-ndr/?ipcsection=advice&ipcadvice=3cedad9354

The Planning Inspectorate aims to conduct a fair, open and impartial examination on behalf of the Secretary of State, in which all issues that are important and relevant will be explored. I note that CPRE Norfolk, SNUB and the Norfolk Green Party Group have registered as interested parties for the examination. Consequently, they can participate fully in the examination, make written submissions, and where appropriate oral submissions on the merits of the application. The Inspectorate does not consider that the three groups' interests have been prejudiced for examination.

I hope my letter and the previous letters from the Planning Inspectorate clearly explain the current position with regard to this application. If you have any further questions about the examination then please contact the case team either by e-mail NorwichNDR@infrastructure.gsi.gov.uk or phone 0303 444 5000.

Yours sincerely,

[redacted]

Mark Southgate
Director of Major Applications and Plans

The Planning Inspectorate

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Katy Jones
CPRE Norfolk
Cardinal House
86 St. Benedict's Street
Norwich
NR2 4AB

Your Ref:

Our Ref: TR010015

Date: 11 April 2014

Dear Ms Jones

Application by Norfolk County Council for an Order Granting Development Consent for the Norwich Northern Distributor Road (NDR)

Thank for you for email dated 7 April 2014 to Sir Michael Pitt, Chief Executive of the Planning Inspectorate. Your message has been passed to me as case manager for the Norwich Northern Distribution Road (NDR) scheme.

Norfolk County Council made an application to the Planning Inspectorate for the NDR scheme on 7 January 2014. We were concerned to discover that some responses to statutory consultation were missing. Having acquired these responses, we consider that the applicant did have regard to the points raised in the missing submissions, as these points were also raised by other consultees. A fuller explanation of this decision is in our Acceptance Checklist published on the Norwich NDR project page on the National Infrastructure pages of the Planning Portal website and can be accessed by following this link:

http://infrastructure.planningportal.gov.uk/norwich

The Secretary of State accepted the NDR application for examination and will shortly appoint an Examining Authority to lead this process. Over one thousand individuals, businesses and organisations have now registered as interested parties for this examination. The Planning Inspectorate aims to conduct a fair, open and impartial examination on behalf of the Secretary of State, in which all issues that are important and relevant will be explored.

We consider that the on-going discussions between CPRE and Norfolk County Council are a matter for the parties directly concerned. As a public body, Norfolk County Council has an established complaints procedure which we understand that you are engaged with. We suggest that this is the most appropriate mechanism for resolving this issue.

Thank you for your continued interest in this application. If you have any queries about the examination, please do not hesitate to contact me further.

Yours sincerely

Nicholas Coombes

Nicholas Coombes
Case Manager
0303 444 5518

contain substantial new information that had not also been raised by other respondents to the applicant's consultation. Consequently, the thematic issues contained in the three groups' responses had been considered by the applicant.

As requested, I attach the original working document used by the case team in researching this matter. Abbreviations have been expanded and references added for clarity, but other than these changes this is essentially the document used to assess the application.

On the basis of the careful comparison of the issues raised in the omitted letters and those addressed by the applicant in the Consultation Report, the Inspectorate concluded that these omissions have not resulted in prejudice to the consideration of the issues raised in the omitted submissions at the acceptance stage. This judgement informed the conclusion that s49 had been complied with and that this, therefore, did not prevent acceptance of the application. This was summarised by my colleague Nicholas Coombes, Case Manager, in the sentence which you have highlighted.

As you have observed, this judgement was explained in box 2.15 of the Planning Inspectorate's Section 55 Checklist, and in my letter to Cllr Boswell. This conclusion was not reached lightly and was subject to meticulous research by the Planning Inspectorate's Norwich NDR case team as explained above.

Whether or not objector groups were prejudiced for examination

I note that CPRE Norfolk, SNUB and the Norwich Green Party have registered as interested parties for the examination. Consequently, you can participate fully in the examination and you will receive all procedural correspondence in relation to the examination. All interested parties will be notified of the details as to how the Examining Authority is proposing to examine the application shortly.

The Examining Authority will conduct a fair, open and impartial examination on behalf of the Secretary of State, in which all issues that are important and relevant will be explored. As interested parties in the examination, you will be able to make written and, where appropriate, oral submissions on the merits of the scheme. The Inspectorate, therefore, does not consider that the three groups' interests have been prejudiced for examination.

Thank you for your continued interest in this application. If you have any queries about the examination, please do not hesitate to contact the case team either by email NorwichNDR@infrastructure.gsi.gov.uk or phone 0303 444 5000.

Yours sincerely,

[redacted]

Director of Major Applications and Plans, on behalf of Sir Mike Pitt
Chief Executive

The Planning Inspectorate

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Katy Jones
CPRE Norfolk
Cardinal House
86 St. Benedict's Street
Norwich
NR2 4AB

Your Ref:

Our Ref: TR010015

Date: 8 May 2014

Dear Ms Jones,

Application by Norfolk County Council for an Order Granting Development Consent for the Norwich Northern Distributor Road (NDR)

Thank for you for email dated 23 April 2014 marked for the personal attention of the Chief Executive. I am replying in the absence of the Chief Executive who would have normally replied to your letter. Your letter raises three points to which I respond in turn below.

Pre-Action Protocol

You refer to the Pre-Action Protocol letter issued by Norwich Green Party on 2 February 2014 (dated 3 February 2014) to the Planning Inspectorate. As Director of Major Applications and Plans I responded to this letter on 4 February 2014 to Cllr Boswell. In my response, I noted:

> "As no decision as to whether or not to accept the application had been made on either 2 or 3 February 2014, we do not consider the pre-action protocol to have been engaged by your letter."

I do not consider the pre-action protocol to have been engaged. You will find information about legal challenges in section 118 of the Planning Act 2008 (PA2008).

Whether or not objector groups were prejudiced at acceptance/compliance with section 49 PA2008

The Planning Inspectorate was very disappointed to discover that the statutory consultation responses from CPRE Norfolk, SNUB and the Norwich Green Party had not been specifically considered by the applicant. These missing responses were a matter of considerable concern to the Inspectorate and we therefore carefully investigated, at acceptance stage, whether the interests of CPRE Norfolk, SNUB and the Norfolk Green Party had been prejudiced by the applicant's omission.

To come to a view on this, my officers obtained copies of the missing letters and then carried out a detailed comparison of the issues raised by the omitted responses and those addressed in the applicant's consultation report. The tests that apply to acceptance are clearly set out and do not go to the merits of the application which is a matter for examination. The comparison showed that the omitted responses did not

Issues/IP	NORWICH GREEN PARTY (20 Sept 2013 Sept) S47 issues
Four rationales for the scheme and consultation phases	Not directly referenced in Consultation Report (Doc 5.1) Appendix S, the applicant only has to refer to the proposal subject to the statutory consultation phase. In Appendix S, at page 108, there is a category of "Consultation was inadequate". General comments that the overall consultation itself was inadequate, including the status of the NDR as an NSIP project changed during the consultation period. The applicant responds: 'When the applicant commenced the statutory pre-application process, the NDR fell within the criteria for a NSIP under the Planning Act 2008. In order to obtain consent for the NDR, therefore, the applicant had to follow the Planning Act 2008 process. On 24 July 2013, the Highway and Railway (Nationally Significant Infrastructure Project) Order 2013 (S.I. 2013/1883) (the Highways Order) was made, coming into force on 25 July 2013. The Order amended Section 22 of the Planning Act 2008, so that a project such as the NDR would not (from 25 July 2013 onwards) fall within the definition of a NSIP. The applicant considered that the NDR was, nonetheless, of national significance. Accordingly, on 25 July 2013 the applicant submitted a qualifying request to the Secretary of State for a direction under section 35(1) of the Planning Act 2008 that the NDR was a project of national significance and so should be treated as development for which development consent was required. A Section 35 direction was made on 9 August 2013.' In the Consultation Report, the applicant sets out the different consultation phases, both non-statutory (Chapter 3) and statutory (Chapter 4) and the rationale for doing so. In terms of the Consultation Area chosen – the Norwich Green Party's contention that the consultation area did not change in spite of changes made to the application - see below for applicant's justification regarding the choice of consultation area. At para 4.9.1 of the Consultation Report, the applicant sets out how it fulfilled s48 obligations (advertising in local and national press).
NSIP Status (including s35)	"Not an NSIP" general category found at page 123 of Consultation Report (Doc 5.1) Appendix S, the applicant refers the reader to Section 2.7 of the Consultation Report.

Consultation Area/Inadequate Consultation	"Consultation area was inadequate". A general category can be found at page 108 of Consultation Report (Doc 5.1) Appendix S. The applicant refers the reader to Section 4.4 of the Consultation Report which covers the applicant's rationale for choosing the consultation area and the subsequent consultations undertaken. "Consultation was inadequate". As a general category, that the overall consultation was inadequate, including the status of the NDR as an NSIP project, changed during the consultation period, can be found at page 108 of the Consultation Report (Doc 5.1) Appendix S. Applicant refers reader that they followed PA 2008 procedures as if the project was an NSIP. "Not a consultation", has been given a general category at page 109 of Consultation Report (Doc 5.1) Appendix S, with applicant's response.
Omission of SSSI and SAC sites in Wensum valley from Consultation	Refer to above regarding consultation area chosen.
Aarhus Convention	Not referenced in Consultation Report. Arguably the Consultation Report and Consultation Report appendices only have to refer to requirements under PA 2008 and how these have been met by the applicant - *not* other conventions.
Funding & Feasibility	Not referenced directly in Consultation Report (Doc 5.1) Appendix S. However, "General comment the NDR is not needed", is given at page 3 of Consultation Report (Doc 5.1) Appendix S, with the applicant's response. A category of "money could be spent elsewhere", is given at page 3 of Consultation Report (Doc 5.1) Appendix S, including: Comments that the money for the NDR should be spent elsewhere. Examples given were: • the A47 single carriageway sections • the Long Stratton bypass • the Norwich Outer Ring Road • the existing road network • public transport

	• sustainable transport measures • on other local authority services • other infrastructure to support development' In both cases, the applicant responds with: "These responses have been considered by the applicant, and regard has been given to them, in putting together the need and alternatives case for the NDR, which is detailed in Volume 1 Chapter 3 of the Environmental Statement (Doc 6.1)". Note: Within the Environmental Statement, cumulative impacts are covered at Chapter 15 (page 989 onwards), socio-economic effects at Sections 13.5 to 13.7, and funding at paragraphs 2.10.12, 2.10.23, 3.8.27 (*NDR Major Scheme Business Case, 2008 – 2009.* In 2009, following the submission by NCC of a Major Scheme Business Case, the Department for Transport (DfT) granted funding for the NDR from the A140 to the A47(T) at Postwick, subject to progression by NCC of the NATS public transport measures which were complementary to the NDR. At its April 2010 meeting, NCC's Cabinet re-affirmed its commitment to the NDR as a dual carriageway from Postwick to the A1067." 3.8.34 "Following submission of the test results, DfT granted funding for the NDR. It was recognised that NATS included public transport measures that were complementary to the NDR, and NCC gave an assurance that those measures would be progressed.", 3.8.35 "In December 2013, the NDR was explicitly identified as a 'Top 40' priority infrastructure investment project in the National Infrastructure Plan 2013." 13.7.5, and 13.7.12. A history to funding is given in the Consultation Report at paras 2.3.4, and 3.3.1 to 3.3.3. A funding statement is only required in regards to Compulsory Acquisition under APFP reg 5(2)(h), as referenced in DCLG's guidance on the application form (at paras 25 and 26).
Carbon emissions/Climate change	Comments regarding emission and noise effects can be found at pages 84-87 Consultation Report (Doc 5.1) Appendix S. For one entry, the applicant responds: 'Climate change is one of the topics considered in the Environmental Impact Assessment (EIA) process. These assessments are included in

	Volume 1 Chapter 5 of the Environmental Statement (Document Ref 6.1). The assessment shows a slight increase in carbon emissions with the NDR, but this needs to be considered within the wider context of NATS which will enable other sustainable travel modes to be introduced.' (page 84)
Alternative development/JCS/sustainable transport	Alternatives including sustainable transport are addressed from pages 10 to 12 of Consultation Report (Doc 5.1) Appendix S. For many of the sub-comments, the applicant refers the reader to the need and alternatives case for the NDR detailed in Volume 1 Chapter 3 of the Environmental Statement (Doc 6.1).
Democratic accountability (draft SoCC)	Not referenced in Consultation Report Appendix S. Argue whether this issue is germane to the PA 2008 requirements and proposal, and if the applicant needed to respond? Applicant only had to consult statutory consultees on the draft SoCC.

Issues/IP	CPRE Norfolk (18 Sept 2013) Section 47 issues
NSIP Status	See Norwich Green Party entry above.
Consultation Are/Flawed Consultation	See Norwich Green Party entry above.
Lack of data on general traffic flows and projected figures/impacts on other developments	'No A47 to A1067 traffic flow data at Exhibitions' is given The applicant responded to comments that there was no information available at the exhibitions regarding the modelled traffic flows between the A47 and A1067, referring the reader to Appendix I to the Traffic Forecasting Report (Doc 5.6). Page 113 of Consultation Report Appendix S.
Link to the A1067 and the A47(w) (crossing	Comments regarding the Wensum Valley crossing are addressed from page 13 of (Doc 5.1) Appendix S.

Wensum Valley)	
Aarhus Convention	See Norwich Green Party entry above.
Funding & Feasibility	See Norwich Green Party entry above.
Carbon emissions/Climate change	See Norwich Green Party entry above.
Environmental Impact	Comments regarding Landscape and Wildlife are addressed from page 75 to 83. (Doc 5.1) Consultation Report The applicant referred to the EIA undertaken, and for landscape, Volume 1 Chapter 7 of part one of the Environmental Statement (Doc 6.1).
Associated housing growth, traffic	Housing growth as a result of NDR could refer to the category 'NDR will only benefit developers' at page 7 of Consultation Report (Doc 5.1) Appendix S ('Comments that the NDR will only benefit Developers') The applicant responds: 'The NDR was developed to resolve existing problems of congestion and rat-running to the north and east of Norwich and to improve access to business, the strategic road network, Norwich International Airport and the wider area of North Norfolk. It has been a key element of NATS before the development of the JCS. However, the NDR would also provide supporting infrastructure for the housing growth identified in the JCS. Development serves people's needs for homes, jobs and services.' For comments that NDR will increase traffic, and then referring to parts of the scheme/route, the applicant refers to Appendix I of the Traffic Forecasting Report (Doc 5.6).
Money could be spent elsewhere	Category of "Money could be spent elsewhere" is given at page 3 of Consultation Report (Doc 5.1) Appendix S.

Issues/IP	SNUB (no date) Section 47 issues
NSIP Status	See Norwich Green Party entry above.
No need	The applicant refers to the need and alternatives case

	for the NDR detailed in Volume 1, Chapter 3 of the Environmental Statement (Doc 6.1). Page 3 of Consultation Report Appendix S.
Consultation Area/Flawed Consultation	See Norwich Green Party entry above.
Funding & Feasibility	See Norwich Green Party entry above.
Aarhus Convention	See Norwich Green Party entry above.
Traffic increase	For comments that NDR will increase traffic, and then referring to parts of the scheme/route, the applicant refers to Appendix I of the Traffic Forecasting Report (Doc 5.6). In response to comments that NDR would create 'rat-runs', the applicant responds at page 5: "A purpose of the NDR is to encourage vehicles away from inappropriate routes in the northern area of Norwich. The applicant's consultations have identified roads where concerns about roads becoming rat runs have been identified. The key routes identified are detailed later in this appendix".
Late notification	Consultation Report (Doc 5.1) Appendix S has the entry – "Some letters delivered late" Comments that information letters advised of the exhibitions were received after the first exhibition, with the applicant's response: "The issue of some residents of Rackheath receiving a consultation letter on the day of the first exhibition is discussed in Section 4.6 of this report. The applicant's response was to provide an additional exhibition on 12 August 2013 (between 13:00 to 20:00) at the Holy Trinity Church in Rackheath. Letters notifying people of this new exhibition were sent to addresses within Rackheath Parish (Appendix K-5 of this report)".
Carbon emissions/climate change	See Norwich Green Party entry above.
Alternatives, associated development	Associated development comments start at page 6 of Consultation Report (Doc 5.1) Appendix S.

	The applicant responds – 'The relationship between the NDR and planned growth in the Joint Core Strategy (JCS) is detailed in Volume 1 Chapters 2 and 3 of the Environmental Statement (Document Ref 6.1).' Alternatives are discussed from page 10 and the applicant responds for some entries: 'These responses have been considered by the applicant and regard has been given to them in putting together the need and alternatives case for the NDR, which is detailed in Volume 1 Chapter 3 of the Environmental Statement (Document Ref 6.1).'
Pollution/Air quality	General concern about noise and pollution are found at page 84 Consultation Report (Doc 5.1) Appendix S onwards, with the applicant referring to Assessments of Noise and Air Quality are contained in Volume 1, Chapter 4 and 11 of the Environmental Statement (Doc 6.1). Concern about noise/pollution effects on Rackheath can be found at page 86.
Plumstead Road, Postwick Hub	Comments on Postwick Hub start at page 33 Consultation Report (Doc 5.1) Appendix S with the applicant's comments on design and configuration therein. Preference for Option 4, and the applicant's response, can be found at page 36. Comments about the NDR effects on Plumstead Road through Thorpe End start at page 91 with applicant's responses.
Links with Airport questioned	Comments on the links to the airport are contained within the Consultation Report (Doc 5.1) Appendix S report in the context of the NDR proposal, with the applicant's responses.
Landscaping	Applicant refers to Volume 1, Chapter 7 of part one of the Environmental Statement (Doc 6.1). Comments regarding Landscape and Wildlife are addressed from page 75 to 83. The applicant refers to the EIA undertaken and for landscape, Volume 1, Chapter 7 of part one of the Environmental Statement (Doc 6.1).
Cumulative Effects with	See entry above

associated housing development	Within the Environmental Statement, (Doc 6.1) assessment of cumulative impacts can be found at chapter 15 (page 989 onwards).
Socio-economic effects	Comments on city centre businesses start on page 8; Consultation Report (Doc 5.1) Appendix S housing developments as above. Within the Environmental Statement (Doc 6.1), assessment of socio-economic effects can be found at Sections 13.5 to 13.7.
NMU	Comments regarding the Walking/Cycling and Horse Riding Proposals start at page 65, Consultation Report (Doc 5.1) Appendix 6 with applicant's responses.