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Denise Carlo
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Group
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Your Ref:

Our Ref: TR010015

Date: 09 October 2013

Dear Ms Carlo

Proposed Application for Development Consent by Norfolk County Council (NCC) – Norwich Northern Distributor Road (NDR)

Thank you for your letter of 26 September, regarding the above, which we received in this office on 1st October.

I will deal with the points you have raised in your letter in turn.

Points 1 and 2

Thank you for drawing our attention to the Direction. The reason for the Direction would appear to be the coming into force of [The Highway and Railway \(Nationally Significant Infrastructure Project\) Order 2013](#). As you have indicated, this changed the thresholds which define when a project becomes a Nationally Significant Infrastructure Project (NSIP) for the purposes of the PA2008.

Section 35 of the PA2008 gives the SoS the power to direct a project, which is not a NSIP, to become one. The last paragraph makes clear that the Direction is made without prejudice to any consideration of any application (when made). I note your commentary about the rationale, given in the Annex of the Direction, for the making of the Direction and I also note your intention to write to the SoS for Transport with any comments or concerns you have in this regard.

You have raised points on the consultation process which, in my view, should be raised directly with NCC and the relevant local authorities concerned. Section 47 of the PA2008 places an onus on the applicant to consult with the relevant District and County Council's within the area(s) that the development is located about how consultation should take place in their area. This is achieved by preparing and ultimately publishing a Statement of Community Consultation (SoCC). Given the role of NCC as both a potential applicant and a consultee we have previously advised that they put in place suitable safeguards to ensure propriety in undertaking these respective roles.

Ultimately, the applicant is not obliged to agree with relevant local authorities about

the content of the SoCC; however, we would expect to see justification in a Consultation Report (prepared as part of the application documentation) where there was any disagreement about the consultation methodology set out in the SoCC between an applicant and a relevant local authority. If an application is submitted to us it is our duty to then ask the relevant local authorities for their views on the adequacy of the consultation undertaken. As such, I would urge you to put your views on the pre application consultation undertaken by NCC to them, and your District Council if it is a potential host authority of the project.

You may be interested in the Department for Communities and Local Government publication "Guidance on the pre application process" (January 2013).

<https://www.gov.uk/government/publications/guidance-on-the-pre-application-process-for-major-infrastructure-projects>

Paragraph 15 of this Guidance states that any consultation undertaken by an applicant should be, "proportionate to the size and scale of the project and where its impacts will be felt."

Paragraphs 50 to 58 of the Guidance explain when consultation should take place, and how much consultation should take place. These paragraphs make clear that applicants are not expected to repeat rounds of consultation unless the project proposals have changed very substantially. I would expect, therefore, that if the physical extent of the proposed application had changed significantly or the intensity of the proposed use was changed significantly, then this may require a further round of consultation or a targeted consultation, focused on the area affected. Clearly this is a judgment the applicant needs to make and we would advise any applicant in this position to consult with the relevant local authorities about how to consult on the revised proposals in their respective area, particularly if it would involve additional or different consultation to that proposed in the SoCC.

Points 3 and 4

The Planning Inspectorate issued the Scoping Opinion on 2nd April 2013 and following a request from NCC we issued advice as follows,

"The SoS can confirm that the Scoping Opinion was provided on the basis of the information included within the applicants Scoping Report, the appended red line boundary plan (Drawing No. R1C093-R1-4232) and the Engineering Layout and Profile – Mainline Sheets 1 to 12 (Drawing No. R1C093-R1-4014A). These plans include proposed changes to the A47(T) junction and have been taken into account. The SoS can only provide a scoping opinion when requested and the Scoping Opinion is informed by the information provided by the applicant and the consultation bodies.

If the applicant is of the opinion that material information was excluded from the Scoping Report, then they may wish to consider requesting a new Scoping Opinion. It is at the applicants' discretion whether they choose to do this. Applicants' should be aware that the description of the development in the ES must be sufficiently certain to meet the requirements of paragraph 17 of Schedule 4 Part 1 of the EIA Regulations and the Applicant should ensure that the submitted ES adequately supports the details

set out in the Development Consent Order (DCO)."

<http://infrastructure.planningportal.gov.uk/projects/eastern/norwich-northern-distributor-road-ndr/?ipcsection=advice&ipcadvic=1d32ef7b50>

The scoping opinion sets down the Planning Inspectorate's opinion on the range of topics that NCC has indicated in their Scoping Report they will cover in their Environmental Statement. Before issuing the Scoping Opinion, the Planning Inspectorate sought the views of prescribed consultees on this matter.

Point 5

The Planning Inspectorate is not aware of any feasibility study regarding a proposal for a further stretch of road to connect with the Norwich Southern Bypass. Based on the information provided by NCC (including the Scoping Report), and from our discussions to date, we have no information that such a proposal forms part of the application which NCC intends to submit to the Planning Inspectorate. It is a decision for NCC as to whether they consult on any feasibility study they commission.

Point 6

If the application is accepted to proceed to examination you will have the opportunity to register your interest in it and make written representations on these matters. The Examining Authority, once appointed, can have regard to any matters which are considered to be important and relevant. This is very likely to include the local planning policy context. At the time of writing there is no National Policy Statement designated for road schemes such as the NDR. However, in its consideration of the proposal the Examining authority will inevitably need to decide, having considered all the evidence, whether the impacts arising from the construction and operation of the proposal are outweighed by the need for the scheme.

I would be happy to meet you to discuss the application process and how to take part in it. I need to be clear that I will not be acting in any decision making capacity in relation to this application and I am not a lawyer and am therefore not able to provide you or any other party with legal advice. With that in mind, perhaps you could call me to make the arrangements. The latest indication I have had from NCC is that they are likely to submit the application to the Planning Inspectorate in early December.

Yours sincerely

Mark Wilson

Mark Wilson
Infrastructure Planning Lead

This communication does not constitute legal advice.
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