



Mr Adrian Hunter
Examining Authority
A47 North Tuddenham to Easton
National Infrastructure Planning
Temple Quay House
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14 December, 2021

Dear Mr Hunter,

National Highways misrepresentation of the RIS2 legal challenge

It has been drawn to our attention that National Highways has misrepresented our legal challenge of the second Roads Investment Strategy (RIS2) either deliberately or in error. Given that National Highways is a party to the proceedings, we would be surprised if it was the latter.

To explain, the wording in REP4-015 on pages 28 and 29 states:

Summary of Applicant's Response at ISH1

*This case is not specifically to do with the determination of applications for DCO projects, it was an application for judicial review into the road investment strategy (RIS) decision of the Secretary of State's on the 11th March 2020, pursuant to section 31 of the Infrastructure Act 2015. The first time that this case actually came up in one of the other A47 schemes (Blofield) when it was raised by Dr. Boswell in the Blofield application prior to the time that the judgement came out. Dr Boswell thought that had **the application for judicial review being allowed** that the case would have implications for the DCO project, **but the application for judicial review was refused**. Because the point was raised in his written submissions, the Applicant then responded to those representations, with the benefit of the judgment, and set*

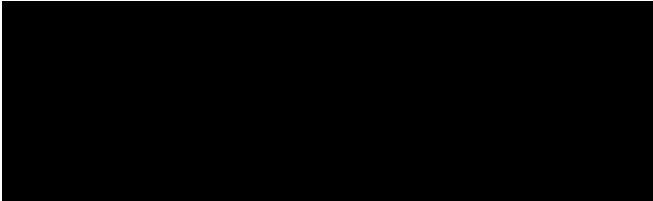
*out extracts from the judgment that confirmed points made in the Applicant's case, for example regarding the role of the carbon budgets and confirm the status of the NPS. Dr Boswell doesn't refer to the case in relation to this Scheme other than to note that there is **an appeal against the refusal of full permission for judicial review**. The Applicant will cover this in written representations. But it's not a case that the Applicant is seeking to rely on in persuading the ExA that there are any matters relevant of direct importance that are not already covered under the Planning Act or NNNPS. [our emphasis]*

The issue is that this legal challenge is not at the permission stage but had a full hearing that was heard at the High Court on 29 and 30 June 2021. Permission had previously been granted for the hearing on 21st July 2020 and so it was accepted by the court that there was an arguable case to be heard. Therefore, it is misleading for National Highways to claim that the challenge was dismissed at the permission stage as it does above.

The current situation is not that we (TAN) are appealing refusal of permission for judicial review at the High Court, but we have sought leave to appeal the High Court decision at the Court of Appeal. This is a quite different matter to what has been presented to the Examination.

Given National Highways involvement in the case as an interested party, we are surprised that such a fundamental misrepresentation of the facts has been made.

Yours sincerely,



Chris Todd

Director