

A47 North Tuddenham to Easton

Scheme Number: TR010038

Volume 9 **9.27 Applicant's Responses to Deadline 6** **Comments**

The Infrastructure Planning (Examination Procedure) Rules 2010
Rule 8(1)(c)

Planning Act 2008

January 2022

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Examination Procedure) Rules 2010**

A47 North Tuddenham to Easton
Development Consent Order 202[x]

9.23 APPLICANT'S RESPONSE TO DEADLINE 5 COMMENTS

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1 INTRODUCTION

1.1.1 The Development Consent Order (DCO) application for the A47 North Tuddenham to Easton scheme was submitted on 15 March 2021 and accepted for examination on 12 April 2021.

1.1.2 The purpose of this document is to set out Highways England's (the Applicant) comments on the following submissions by third parties at Deadline 6 (13 December 2021):

- A C Meynell's comments on any additional information/submissions received by D5 (**REP6-025**);
- Bryan Robinson's Responses to the ExA's further Written Questions (**REP6-026**).
- Climate Emergency Policy and Planning's (CEPP) responses to the ExA's further Written Questions - ExQ3/4.3.1, REP4-016, REP4-015, EV-024a - explanation of non-compliance with EIA Regs (**REP6-020**).
- Environment Agency's responses to the ExA's further Written Questions (**REP6-021**).
- Mark Kenney's comments on any additional information/submissions received by D5 (**REP6-027**).
- Norfolk County Council's comments on any additional information/submissions received by D5 (**REP6-023**).
- Orsted Hornsea Project Three Offshore Wind Farm's update on Statement of Common Ground (**REP6-024**).
- Richard Hawker's comment on any additional information/submissions received by D5 (**REP6-028**).
- Wild Wings Ecology's responses to the ExA's further Written Questions (**REP6-029**).

1.1.3 This document also responds to the following late submissions during December 2021:

- A C Meynell's:
 - Response to Issue Specific Hearing 2 Written Summary on heritage (**REP6-033**); and
 - Information on Estate water supply, drainage and woodland management supplied to Applicant after Accompanied Site Inspection (**REP6-034**).
- Transport Action Network's late submission accepted at the discretion of the Examining Authority (**REP6-035**).

1.1.4 The following sections present the responses where concerns or requests are made warranting provision of additional information or clarity by the Applicant.

1.1.5 The Applicant welcomes the responses by Historic England, Orsted Hornsea Project Three Offshore Wind Farm, Environment Agency, and Norfolk County Council. However, the Applicant has no further comments to make on these

responses.

2 KEY ABBREVIATIONS

2.1.1 The following common abbreviations have been used in the Applicant's submissions to the Examination:

- dDCO = draft Development Consent Order
- DMRB = Design Manual for Roads and Bridges
- ExA = Examining Authority
- NPSNN = National Policy Statement for National Networks 2014
- NWL = Norwich Western Link
- the Scheme = the A47 North Tuddenham to Easton dualling scheme

3 A C MEYNELL

3.1.1 A C Meynell Deadline 6 Submission, comments on any additional information/submissions received by D5 (**REP6-025**), is available at the link below.

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010038/TR010038-001419-submissions%20received%20by%20D5.pdf>

3.1.2 The Applicant has also reviewed A.C. Meynell's response to Issue Specific Hearing 2 Written Summary on heritage (**REP6-033**), available in the below link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010038/TR010038-001421-DL6%20-%20A%20C%20Meynell%20-%20Other-%20Response%20to%20ISH2%20Written%20Summary%20on%20heritage.pdf>

3.1.3 The Applicant's responses are provided in the following table.

3.1.4 A C Meynell also submitted information on Estate water supply, drainage and woodland management supplied to Applicant after Accompanied Site Inspection (**REP6-034**), which is available at the following link. The Applicant has no further comments on this.

3.1.5 <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010038/TR010038-001423-DL6%20-%20A%20C%20Meynell%20-%20Information%20on%20Estate%20water%20supply,%20drainage%20and%20woodland%20management%20supplied%20o%20Applicant%20after%20ASI.pdf>

| Comment | Applicant Response |
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| <p>A C Meynell (ACM) states there are fundamental flaws in the ES in its consideration of the status of and the effects of the proposed Scheme on the [REDACTED] including:</p> <ul style="list-style-type: none"> limited research to develop an understanding of the Estate; | <p>ES Chapter 5 Cultural Heritage (APP-045), including scope of the baseline and assessment, are agreed with the relevant authorities, as reflected in the below Examination submissions:</p> <ul style="list-style-type: none"> Breckland Local Impact Report (REP 2-017) Norfolk County Council Local Impact Report (REP2-022) Statement of Common Ground with South Norfolk Council (REP4-006) Statement of Common Ground with Breckland (REP4-004) Statement of Common Ground with Broadland District Council (REP4-005) Statement of Common Ground with Historic England (REP1-009) Historic England Response to Examining Authority's Written Questions (ExQ1) (REP2-021) Historic England Written Representation and Position Statement (REP1-030) |
| <ul style="list-style-type: none"> lack of appreciation or acknowledgement of the designated heritage status; | <p>The effects on [REDACTED] and its designated listed buildings were considered in ES Chapter 6 Cultural Heritage, Rev.1 (REP3-012).</p> <p>There is no additional designated heritage status under the Inheritance Tax Act 1984 as confirmed by Historic England at Deadline 6 in their Responses to the ExA's further Written Questions (REP6-022):</p> <p><i>Historic England were not consulted by Her Majesty's Revenue and Customs during the designation of this Inheritance Tax Act (ITA) claim, had no engagement with the development of the management plan and have no on-going role in the review of the landowner's implementation of the Undertakings under the scheme. These duties have all been carried out by Natural England and as the designation relates to the importance of the landscape, not the listed buildings on the estate. This is reflected in the Undertakings which concern maintenance of the land, not the buildings. The proposed scheme within the draft Development Consent Order would affect some of the land within the ITA area, but we would defer to Natural England on this matter. As regards the grade II listed buildings on the estate we consider it appropriate that the impact on their historic significance by development in their setting should be assessed by the Applicant in the Environmental Statement and, as with other grade II listed buildings in the scheme, we would defer to the Local Planning Authority to advise the Examining Authority on that assessment.</i></p> |
| <ul style="list-style-type: none"> lack of appreciation of the quality of the small and relatively intact glebe estate; | <p>The estate is no longer a glebe estate, as this refers to the function as an income for the church and the former vicars/parsons – this is no longer current. The coherence of the estate has been addressed in ISH2 and REP4-015, Annex C.</p> <p>To clarify the point, the intactness of the former glebe field layout cannot be truly established since the layout of the land granted to the original parson in 1755 is unknown as, if any plans were made, none are known to survive. However, the 1755 reference in REP1-048 states that the grant of land was just over 64.5 acres in 8 parcels of land. The size of an acre was not yet formalised nationally in 1755. The change is not significant enough in most places that a rough comparison is still useful in comparing the size of the grant to modern measurements¹. Taking a "parcel" as being delineated by field boundaries, roads, watercourses etc, and discounting the House, farm buildings and garden with crinkle crankle wall, the size of the glebe estate at the time of the tithe was roughly 128 acres in at least 31 parcels (7 of which are not attached to the main estate, being spread around the parish). From the plans provided by HMRC² the current estate west of Berrys Lane is roughly 93 acres in at least 18 parcels. Further, the layout of the buildings can be seen to change on the historic mapping from 1826 to 1883, and land use has also changed since the 1838 tithe apportionment, which notes a more uniform arable usage with less woodland/plantation than the current situation.</p> <p>¹Mingay, G. E. (1962). The Size of Farms in the Eighteenth Century. <i>The Economic History Review</i>, 14(3), 469–488. https://doi.org/10.2307/2591888</p> <p>²Turner, M. (1982). Agricultural Productivity in England in the Eighteenth Century: Evidence from Crop Yields. The</p> |

| Comment | Applicant Response |
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| | <p>Economic History Review, 35(4), 489–510. https://doi.org/10.2307/2595404</p> <p>² http://www.visitukheritage.gov.uk/servlet/com.eds.ir.cto.servlet.CtoLandDetailServlet?ID=584</p> |
| <ul style="list-style-type: none"> lack of cultural heritage understanding and research that links [REDACTED] to the parish churches at East Tuddenham and Honingham; | <p>At the time of drafting the ES, the lack of certainty was incorporated into the assessment, not by disregarding the possible associations, but by assuming either or both associations may be present. These relationships are not affected and so the information is not relevant.</p> <p>ES Chapter 6 Cultural Heritage (APP-045) has been reviewed and accepted by all relevant planning authorities that cover the [REDACTED], including Breckland Council and Broadland Council, as reflected in the below Examination submissions:</p> <ul style="list-style-type: none"> Breckland Council Local Impact Report (REP 2-017) Statement of Common Ground with Breckland Council (REP4-004) Statement of Common Ground with Broadland District Council (REP4-005) Statement of Common Ground with Norfolk County Council (REP4-003) Statement of Common Ground with South Norfolk Council (REP4-006) Statement of Common Ground with Historic England (REP1-009) <p>As noted in their Deadline 6 submission 'Responses to the ExA's further Written Questions' (REP6-022), Historic England defer to the Local Planning Authority to advise the ExA on the assessment of effects by the Scheme on Grade II listed buildings, such as on the [REDACTED].</p> |
| <ul style="list-style-type: none"> a failure to assess the landscape qualities of the Estate or the effect of the Wood Lane junction upon its landscape or upon it visually whether by day or night, or in winter and summer, or upon its commercial receptors; | <p>The effects of [REDACTED] as a visual and landscape receptor were considered and impacts assessed in ES Chapter 7 Landscape and Visual Effects (APP-046), taking account of effects at day and night, and in winter and summer. Night-time effects are assessed within Sections 7.10.47 to 7.10.49 ES of ES Chapter 7, covering both the effects of the Scheme's lighting and vehicle headlights.</p> <p>ES Chapter 7 has also been reviewed and accepted by all relevant authorities that cover the [REDACTED], including Breckland Council and Broadland Council, as reflected in the below Examination submissions:</p> <ul style="list-style-type: none"> Breckland Council Local Impact Report (REP 2-017) Statement of Common Ground with Breckland Council (REP4-004) Statement of Common Ground with Norfolk County Council (REP4-003) Statement of Common Ground with Broadland District Council (REP4-005) Statement of Common Ground with South Norfolk Council (REP4-006) <p>In addition, as set out in RR-061.2, RR-061.6 and RR-061.7 of the Applicant's Responses to Relevant Representations (REP1-013), the Applicant has reviewed the Berry Hall Estate ITA 1984 designation and Heritage Management Plan and concluded that, while they contain some additional information on the Estate, this would not affect the conclusions within the route options studies and in ES Chapter 7.</p> <p>The effects on commercial receptors are considered and impacts assessed in ES Chapter 12 Population and Human Health (APP-051). Section 4 of the document '9.25 Additional Environmental Information' (REP6-019), submitted at Deadline 6, also confirms the approach and methodology to assess impacts on population and human health was in accordance with the most up to date standard in the Design Manual for Roads and Bridges (DMRB), LA 112 Population and human health (Revision 1). The approach to collectively account for residential areas and businesses was undertaken primarily based on locality and access with particular focus on access which may be impacted by the Scheme. Therefore, whilst not every business or residential property was listed, the larger businesses and residential areas which were listed for information purposes were assumed to represent the smaller businesses and other residential properties located in the vicinity.</p> <p>Section 4 also presents information regarding countryside stewardship status which was erroneously omitted from ES Chapter 12 (APP-051) at the time of issue. However, as the mid-tier agreement was only valid until December 2021, any new Countryside Stewardship application would have to account for the Scheme, so there would be no change to the impact or the conclusions of the assessment as originally presented. The Applicant understood from the representations made at the hearing that the Countryside Stewardship Scheme had been extended, but at present has no further information on that extension.</p> |
| <ul style="list-style-type: none"> a failure to consider the combined historic and landscape qualities of the Estate and that in its case the sum of the whole is greater than the parts, by not comprehending or appreciating the Estate as an historic glebe estate of uncommon interest and by not recognising the heritage status and inherent value of the whole despite this being acknowledged by HM Treasury on behalf of the Government. | <p>The estate is no longer a glebe estate, nor is it particularly well preserved or legible in the landscape, and there is no designated heritage status under the Inheritance Tax Act 1984, as confirmed by Historic England at Deadline 6 in their Responses to the ExA's further Written Questions (REP6-022).</p> |
| <p>d) Failure to appreciate the Estate's qualities as an entity in itself</p> <p>2.7. Had a reasonable level of historic research and interpretation been carried out for the ES the consultant would have recognised that is, at least on the western side of Berrys Lane, a small glebe estate which remains largely intact. This</p> | <p>The Secretary of State's statutory criteria in the Principles for Selection of Listed Buildings (DCMS 2018) states:</p> <p><i>"Historic Interest:</i></p> <p><i>To be able to justify special historic interest a building must illustrate important aspects of the nation's history and / or have closely substantiated historical</i></p> |

| Comment | Applicant Response |
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| <p>essentially underpins the Natural England assessments of and the Government's designation of the estate as outstanding in a national context. While more research would have to be done to confirm this proposition, I believe that it is at least uncommon, if not rare, for a glebe estate that is known to have existed in the 18th century and the bounds of which can be well established in the 19th century to remain intact. Today, is a further point of interest, Mr Meynell is himself distantly related to Rev du Quesne through Rev du Quesne's mother Elizabeth (the daughter of Sir Roger Bradshaigh of Haigh Hall, Wigan) whose portrait he has hanging at Berry Hall and this has cultural heritage value which should have been picked up.</p> | <p><i>associations with nationally important individuals, groups or events; and the building itself in its current form will afford a strong connection with the valued aspect of history.</i>"</p> <p>Guidance is given on what constitutes a "nationally important individual" in Historic England's Listing Selection Guide for commemorative structures (Historic England 2017):</p> <p><i>"inclusion in the Oxford Dictionary of National Biography is a good rule of thumb".</i></p> <p>Parson Woodforde is included, the Rev du Quesne is not. Further guidance on historical association is given in Historic England's selection criteria for domestic and country houses (Historic England 2017):</p> <p><i>"Well-documented historic associations of national importance may increase the case for listing but normally a building should be of some architectural merit in itself or it should be preserved in a form that directly illustrates and confirms its historic associations. In designating the residences of famous persons, a view needs to be reached which balances their historical significance with the interest of the house: degree of survival, and the legibility of the connection between occupant and house, will mainly determine List-worthiness and grading. Sometimes architectural modesty can reveal considerable historical interest (for instance, as in the case of the Chartist settlements of the 1840s). Cases must be judged on individual merits."</i></p> <p>The form of the structure is not securely attached to the dates and descriptions (or lack thereof) of those people noted above. Rev. du Quesne is not an historic figure of significant cultural importance. The diary of Parson Woodforde, which mentions Rev. du Quesne, is of value precisely because the people and places in it are unremarkable. It is a record of ordinary life at a point in time when ordinary people were not usually documented.</p> <p>While it could be argued that Parson Woodforde is of importance, the assessment of the applicant is that he is not, as an individual, culturally influential on a national level, despite being of interest and use via his diary.</p> <p>There could therefore potentially be value in the association if the current environment was relatively unchanged from details noted in the diary and could therefore be experienced and appreciated as an illustrative example of typical late 18th century life. However, no details of the house, gardens or landscape of the estate are given in the diary and the estate has certainly changed as noted above. The nature of the association of Berry Hall with Parson Woodforde is neither strong (as he was not the occupant) nor preserved in a form which directly illustrates and confirms that association.</p> <p>The last sentence of paragraph 2.7 is not a professional heritage assessment concern and should not assist the ExA. The relationship of the current owner to a former one is entirely irrelevant in a heritage assessment. During Issue Specific Hearing 3 (ISH3), the lineage of the Rev. du Quesne and the family relationship with Mr Meynell was raised by Mr Meynell's representatives in discussion of value (again, not directly stated to be of cultural heritage value). That which makes a person of historical significance sufficient to be recognised in development control is their influence over culture. In short, it is what you do, not who you are.</p> <p>While this may understandably be a matter of paramount importance to Mr Meynell personally, the lineage of living individuals is not something that can or should impart cultural heritage value in a legal setting. This sentiment expressed in the comment should be rejected by the ExA and the Secretary of State. Failure to do so may result in a precedent being set that one living person's worth is greater than another's through accident of birth.</p> |
| <p>ACM claims a reasonable alternative scheme design with a number of different options for it, remains fully capable of avoiding adverse impact on the cultural heritage interests and preserving the integrity of the [REDACTED] these or any other options to adjust the location of the junction and its associated roads and structures to reduce the effects on the Estate, have not so far been adopted.</p> | <p>The Applicant has undertaken an assessment of the alternative Wood Lane junction options, as reported in the updated '9.15 - Alternative Wood Lane Junction Options Appraisal' (REP6-015) issued at Deadline 6.</p> <p>The analysis demonstrates that each of the alternative options proposed has significant deficiencies across a range of key criteria where assessments were possible. It follows that the current Scheme design remains the preferred Wood Lane junction design option with regards location and layout to be taken forward as the most appropriate solution in the location.</p> <p>This conclusion is supported by Norfolk County Council in their Deadline 6 Submission 'Comments on any additional information/submissions received by D5' which also states "...the County Council can confirm that it supports the Applicant's proposal for this junction."</p> <p>The provision of Wood Lane junction has also been supported by the relevant district councils since statutory consultation, as reflected in the below Examination submissions at Deadline 4:</p> <ul style="list-style-type: none"> • Statement of Common Ground with Breckland Council (REP4-004) • Statement of Common Ground with Broadland District Council (REP4-005) • Statement of Common Ground with South Norfolk Council (REP4-006) |
| <p>Regarding Applicant's Response at Deadline 5 - REP5-016, size of Wood Lane junction: REP4-016 Appendix A does not "provide evidence" to justify</p> | <p>The ExA is directed to Appendix B of the Applicant's Response to the Examining Authority's Third Written Questions (REP6-018) issued at Deadline 6. This note explains why the Applicant has made an application for a DCO which caters for the</p> |

| Comment | Applicant Response |
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| <p>the same size of junction in a no NWL situation. The Applicant merely makes a statement (see REP4-016 App A at page 8) "[it] has reviewed the anticipated traffic levels and types of vehicles ... and has concluded that ... the minimum Inscribed circle diameter required would be similar to that required in the NWL scenario. Therefore the footprint of the two scenarios would be similar...". There is no evidence provided to demonstrate how the factors considered produced the conclusion which was reached.</p> | <p>Norwich Western Link scheme and why the Applicant considers that the landtake for the Scheme would remain materially the same in a hypothetical no Norwich Western Link (NWL) scenario.</p> |
| <p><i>Regarding Applicant's Response at Deadline 5 - REP5-016, Applicant's Appraisal of Alternatives (AS-022) and REP4-016 size of Wood Lane junction.</i></p> <p>The original Appraisal was responded to on behalf of ACM at REP4-023 Appendix A (Technical Note by Mr Joe Ellis). The updated version of the Appraisal was not submitted by the Applicant at Deadline 5 and will be responded to by ACM when received.</p> <p>REP4-016 did not provide evidence, only an unsupported statement.</p> <p>ACM has asked the Applicant to provide cross sections of the Wood Lane junction in order to be able to understand more clearly the effect its south side as proposed on the BHE and Honingham village and these should be provided also to Honingham PC.</p> | <p>The Applicant has undertaken an assessment of the alternative Wood Lane junction options, as reported in the updated '9.15 - Alternative Wood Lane Junction Options Appraisal' (REP6-015) issued at Deadline 6.</p> <p>The Wood Lane junction long sections, showing how the Scheme landscaping will screen the [REDACTED] are provided in Appendix A of the Applicant's Response to Examining Authority's Third Written Questions (REP6-018) issued at Deadline 6. These have also been issued directly to Mr Meynell. Updated cross sections have also been issued as Appendix A to the Applicant's Written Summary of Oral Submissions at ISH3 (TR010038/EXAM/9.29) submitted at Deadline 7.</p> |

4 BRYAN ROBINSON

- 4.1.1 Bryan Robinson's Responses to the ExA's further Written Questions (REP6-026) are available at:
<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010038/TR010038-001384-DL6%20-%20Bryan%20Robinson%20-%20Responses%20to%20the%20ExA%E2%80%99s%20further%20Written%20Questions.pdf>
- 4.1.2 On the matter raised, covering the colony of barbestelle bats, traffic movements along Taverham Road and the Scheme's consideration of the NWL in the design and traffic modelling, the Applicant has nothing more to add to the responses provide to the ExA to date.

5 CLIMATE EMERGENCY POLICY AND PLANNING'S (CEPP)

- 5.1.1 Climate Emergency Policy and Planning's (CEPP) Responses to the ExA's further Written Questions - ExQ3/4.3.1, REP4-016, REP4-015, EV-024a (REP6-020), are available at:
- 5.1.2 <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010038/TR010038-001392-DL6%20-%20Climate%20Emergency%20Policy%20and%20Planning%20--%20explanation%20of%20non-compliance%20with%20EIA%20Regs.pdf>
- 5.1.3 The Applicant's response to Section 2 of their comments is presented in the below table.

| Comment | Applicant Response |
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| <p>17 At REP4-015, page 28, point 5 on "the High Court Judgment in the case of R (on the application of Transport Action Network) v Secretary of State for Transport [2021] EWHC 2095 (Admin)", the Applicant states: <i>"... 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."</i> [1]</p> <p>18 These 3 statements are erroneous and misleading.</p> <p>19 First, on 21 July 2020 Lieven J granted the claimant permission to apply for judicial review. This is evidenced in the Holgate J judgement of 26th July 2021 at bullet 16. In my written representation on the Blofield (A47BNB scheme), dated 20th July 2021, I referred to the case which Holgate J had already heard, and I also referred to expert witness evidence before the Court from Professor Phil Goodwin (on the types of carbon emissions that should be assessed for road schemes). I was referring to the full case which had already been heard in the Court and, following the Hearing, was determined, 6 days later, on 26th July 2021. I have never referred to the original application for judicial review of 11th March 2020 in any representations on the A47 schemes.</p> <p>20 Later, after the July 26th 2021 judgement, in my deadline D4 submission on A47BNB, dated Sept 9th 2021, I referred to the fact that Transport Action Network had sought permission to appeal the ruling – a ruling which was on the full judicial review (not an application for one).</p> <p>21 Therefore statement 1 is false in saying that I was referring to the</p> | <p>The Applicant is grateful to Dr Boswell for withdrawing his purported complaint by way of a letter dated 9 January 2022 (AS-039) accepted by the ExA into the Examination.</p> <p>Given the retraction of the purported complaint, the Applicant does not propose to provide any further response here, but notes that the Applicant responded to the purported complaint orally at issue specific hearing 3, and the Applicant comments are captured in the Applicant's written summary of those hearings (TR010038/EXAM/9.29).</p> |

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| <p>application for judicial review of 11th March 2020.</p> | |
| <p><i>“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.” [2]</i></p> | |
| <p>22 Statement 2 is false in suggesting that I was considering the implications of if/whether the March 2020 application for a Judicial Review had succeeded. I only referred in my A47BNB WR to the full hearing and anticipated judgement, as of July 2021.</p> <p>23 Further in statement 2, although the application of 11th March 2020 was turned down, the application for judicial review was granted on 21 July 2020 as above. The phrasing of statement 2 contains implications which are misleading in the extreme. It implies that the case never proceeded to a full hearing where in fact it did. It also implies that I was attaching weight to case which never even received permission to go a full hearing (which would be a naïve thing to do and something that I would not do).</p> | |
| <p><i>“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.” [3]</i></p> <p>24 Further statement 3 is just erroneous. The current appeal, and the appeal to which I referred, is the appeal to the judgement on the full judicial review, not an appeal against the refusal of full permission for judicial review.</p> | |
| <p>25 I have watched the EV-024a recording (direct link¹² to relevant section) of ISH2, Part1, Session 4 and the same erroneous and misleading statements were made at the ISH2 by the Applicant.</p> <p>26 I have to say I find it remarkable that this has been so inaccurately and misleadingly presented by the Applicant. Not least because the same agent of the Applicant (Ms Sarah Holmes) has engaged in matters on the A47BNB examination correctly referring to these administrative facts about the case (although we disagree about the legal interpretation of the judgement¹³): for example, Ms Holmes has quoted directly from the full judicial review judgement in the A47BNB examination. Given that Ms Holmes knew that the case had gone to a full judicial review and judgement on July 26th, 2021, and has previously quoted from the judgement, all three statements are deeply concerning.</p> <p>27 I therefore make a complaint against the Applicant, and I request that the ExA asks the Applicant for a full, formal retraction of this section of REP4-015.</p> | |
| <p>I find that the carbon quantification, based on the core scenarios in the traffic models in the Transport Case, is without doubt a solus quantification, and not cumulative. The carbon assessment based on these quantities is also a solus only assessment, and not a cumulative assessment. Since an assessment of the cumulative GHG emission impacts of the Scheme is legally required under the EIA Regs, and is not provided anywhere else in the Environmental Statement, this failing alone renders the Environmental Statement unlawful.</p> | <p>The approach to cumulative assessments has previously been outlined in Deadline 1 submission document '9.2 Applicant's Response to Relevant Representations' (REP1-013) – see Common Response G.</p> <p>With regards to carbon quantification, the assessment undertaken in ES Chapter 14 Climate, Rev.1, (REP3-014) has assessed the change in GHG emissions between Do Something (DS) and Do Minimum (DM), which is the approach described in the EIA Regulations. The DM baseline is described in Section 4.4 of ES Chapter 4 Environmental Assessment Methodology (APP-143), which states that the future baseline (used for DM) considers changes which are certain to occur before the implementation of the Scheme, and entirely independent of the Scheme.</p> <p>Schedule 4 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 states the following should be given with regards to the required baseline:</p> <p><i>A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.</i></p> <p>The future baseline used for the DM considers this likely evolution and in compliance with traffic modelling guidance from the Department for Transport (DfT) Transport Appraisal Guidance (TAG), developments and transport schemes identified in the uncertainty log with the likelihood of at least 'near certain' or 'more than likely' were included in the core scenario forecast, reported in Chapter 4 'Transport Assessment' within the Case for the Scheme (APP-140). As such, the DM includes other A47 schemes and the NWL.</p> <p>This enables a consistent assessment approach to be taken through the ES and the traffic model that informed the Scheme design and economic case. This provides an assessment of the cumulative effects of the Scheme through the consideration of the GHG emissions impact of the Scheme with other relevant</p> |

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| | <p>committed developments within the traffic model.</p> <p>This has been the standard approach for all traffic model dependent EIA assessments (e.g. Air Quality, Noise, HEWRAT and Climate). This applies to all highways scheme EIAs previously approved under the Planning Act 2008.</p> |
| <p>I request that the ExA request the following additional information from the Applicant:</p> <ul style="list-style-type: none"> Any other roads schemes which are included in the DM and DS0 models beyond the A47BNB, A47THI and NWL. A carbon quantification and assessment based on the model configuration of the sensitivity test DS1 (without the NWL). Traffic modelling, carbon quantification and assessment based on the three EIA Regs compliance-oriented traffic models which I define at Table 2. An analysis of which other environmental factors have no cumulative assessment due to the error (as explained in detail) of using performance-oriented traffic models as a basis for environmental impact assessment. An explanation of inconsistencies between the traffic modelling uncertainty log and Cumulative Effects Assessment short and long lists. For algorithmic transparency, requires a fuller explanation of how the traffic models used by the Applicant for the Environmental Assessment function and link together. A response to my questions in REP1-023 about the NATS 2015 and NATS 2019 models. | <p>As described previously, the assessment undertaken in ES Chapter 14 Climate, Rev.1, (REP3-014) is compliant with EIA Regulations. As such the additional assessments requested by CEPP will not be provided as the information provided by the Applicant is sufficient to determine the impact of the scheme against the requirements of the NN NPS.</p> <p>With regards to the Cumulative Effects Assessment, Blofield and Thickthorn are not mentioned specifically in the long or short list for Tuddenham and are not assessed in the wider CEA in Chapter 15. This is described in ES Chapter 15 (REP6-030) in the following:</p> <p><i>15.3.19. Other A47 road projects A47 between Peterborough and Great Yarmouth were initially considered following scoping opinion feedback. However, none are within the Zone of Influence (ZOI) and therefore not progressed further in this assessment.</i></p> <p><i>15.3.26. A search for developments in the east of England was carried out using the Planning Inspectorate website. Developments within the ZOI were included in the long list of developments as shown in Table 1 of Appendix 15.1 (TR010038/APP/6.3).</i></p> <p>Table 15-1 'Study area extents' scopes the traffic model assessments out of the cumulative ZOI that the above relate to. The Uncertainty Log referenced in the Case for the Scheme (APP-140) includes other projects that may impact the traffic model. Blofield and Thickthorn have been considered as part of the traffic model and are therefore part of the air quality, noise, carbon assessments in their respective ES Chapters.</p> <p>With regards to the NATS 2015 and NATS 2019 models, The Applicant responded in the Deadline 1 submission document '9.2 Applicant's Response to Relevant Representations' (REP1-013) – Common Response E. Further, agreement has been made with NCC on the differences between the 2015 and 2019 Traffic Models as confirmed in the Statement of Common Ground (REP4-003) under References 113 – 116.</p> |

6 MARK KENNEY


6.1.1 Mark Kenney's comments on any additional information/submissions received by D5 (**REP6-027**) are available at:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010038/TR010038-001382-submissions%20received%20by%20D5.pdf>

6.1.2 The Applicant's responses are presented in the below table.

| Comment | Applicant Response |
|---|--|
| <p>1.Traffic Predictions</p> <p>Highways England's responses suggest that it is quite clear in its own mind that, once completed, its current scheme proposals will not adversely affect Taverham Road and probably benefit the lane. My understanding is that even if the NWL does not happen, (HE is saying that) the mitigation measure of closing Honingham Lane, coupled with the present HGV restriction and a new 30mph speed limit will result in 400 vehicles passing along the lane each day (as opposed to the 600 a day apparently experienced at present). With the NWL built and open, Taverham Road can anticipate only 200 vehicles a day. HE says that it has factored in the food hub connection link: we hope that includes not only HGVs, but also vans and employee traffic predicted to be using Taverham Road. If this were to prove accurate (setting aside the lighting and visual impacts) the scenario would be quite reassuring. It does concern me, however, that there isn't any clear explanation as to what will actually happen to all that 4k plus traffic currently running through lower Easton. In particular, if there is no NWL road in place, ever, where does it all go? The figures seem to need further explanation, because the increase in Taverham Road traffic without the NWL built is still, at most, only half that currently passing through to the Easton roundabout. It makes the predictions seem 'unreliable', but perhaps there is an explanation? I would also comment that the vast majority of through traffic currently uses Ringland Road to get directly through Lower Easton to the Easton roundabout and relatively little heads further west through Ringland village to use the Honingham Lane route to the A47 via Taverham Road.</p> <p><i>Question to HE.</i></p> | <p>The Applicant confirms that traffic along Taverham Road with Honingham Lane closed would be 1,300 AADT.</p> <p>In the Applicant's response to Mr Kenney, at Deadline 5, in document '9.22 Applicant's Comments on Third Party Comments at Deadline 4' (REP5-016), the Applicant quoted a line that that stated:</p> <p><i>"... we are proposing the introduction of a Temporary Traffic Regulation Order (TTRO) to prohibit through traffic on Honingham Lane. This is modelled in the "DS1" scenario [see below], which contains No NWL and the Church Lane (Easton) closure, which demonstrates there is a slight increase in traffic of 400 AADT."</i></p> <p>It is important to note this line refers to an 'increase' to the baseline situation, which was described earlier in the response as: <i>"...the "Do Nothing" scenario in 2025 is 900 AADT along Taverham Road."</i></p> <p>Thus 400 + 900 = 1,300 AADT.</p> |

| Comment | Applicant Response |
|---|---|
| <p>HE's answer to Mr Hooker in 9.22, 5.1.2, states that the interim closure of Honingham Lane keeps '..... traffic along Taverham Road to 1,300 AADT compared to 2,600 without Honingham Lane closed.' However, the answer given in response to my question was that the interim measure (with the NWL unopened) would result in 400 AADT. Please clarify which is correct, as there is an enormous difference between 400 vehicles a day and 1300 a day.</p> | |
| <p><i>Question to NCC Highways.</i></p> <p>I have asked this of NCC on 24.11.21 but have had no reply. Does NCC Highways now accept HE's figures as stated above? What has happened to NCC's previously stated concerns and their own predictions? Does NCC Highways now believe that the rat run traffic we fear will move over to Taverham Road will in fact 'dissipate' as HE predicts? Where do all the vehicles go when the NWL is not open? It would be reassuring to know that both agencies are equally sure that the issue is resolved – does NCC have evidence which leads it to believe it is resolved? A succinct 'Yes' or 'No' would be a good starting point to the answer.</p> | <p>The Applicant does not have any comment on this question as it purports to be directed to NCC as Highways Authority.</p> <p>However, as the Applicant highlighted in issue specific hearings, it is not appropriate for third parties to ask and direct questions to other parties. Whilst third parties are entitled to make comments, provide evidence, and even suggest issues or questions which the ExA may wish to consider further, asking and directing questions to other parties is the ExA's role. The Applicant understands that if the ExA would be assisted by further clarification from any party, the ExA would seek that clarification in written or oral questions.</p> |
| <p>2. Controlling traffic on the country lanes.</p> <p>One has to be sceptical about measures that rely on putting a 30mph speed limit on a country lane, HGV prohibition signs and removing a road from Sat – Nav preferred routes. HE states the number of signposted pull-ins already existing on Taverham Road: it fails to note also that many of the signs have been knocked over or are lost in undergrowth. HE's monitoring also clearly didn't observe and record the number of HGV vehicles which currently ignore the restrictions and seek to nip across the valley. The District Council are unable to patrol and limit the amount of fly-tipping on the lane, so one wonders what chance there is of catching (the majority of) cars and rogue HGVs which currently exceed 30mph along this road.</p> <p><i>Question to NCC Highways</i></p> <p>Firstly – would you please undertake NOT to litter this lovely lane with more useless and inappropriate signs? This is a country lane, not a major highway – or at least it is at present. The northern exit to Weston Longville is an almost hilarious riot of random signage – and it does absolutely nothing to traffic ... other than to bewilder drivers.</p> <p>Secondly – would you please explain quite how you anticipate a 30mph speed limit can be effectively policed in a country lane location? In fact, there are locations where the limit should be 20mph – but, please, this is not an invitation to double the signage!</p> | <p>The Applicant does not have any comment.</p> |
| <p>3. Equinor's proposed use of Taverham Road for its site access.</p> <p>The Applicant states that it is'only ensuring that a short section of Taverham Road from the Norwich Road junction northern roundabout is suitable for Orsted's construction traffic requirements'. Well, it may have escaped HE's observations, but that is precisely the length of lane along which almost all the Taverham Road residents live! HE also failed to answer the clear question put in my last response – what is the nature / size and daily number of vehicles predicted to require this access?</p> <p><i>Question to HE</i></p> <p>Please comment on my first observation - do you understand that almost all the (<i>redacted - Taverham Road?</i>) residents live (and have accesses) along precisely that part of (<i>redacted - Taverham Road?</i>) which Orsted proposes to use for (<i>construction</i>) access? Do you also understand that it is probably the most tortuous and dangerous part of the lane, narrow, steep, blind bended by a barn and banks?</p> | <p>In the Applicant's Comments on Third Party Comments at Deadline 4 (REP5-016), the Applicant stated: "<i>However, the Applicant is only ensuring that a short section of Taverham Road from the Norwich Road Junction northern roundabout to a proposed agricultural field access on the east side of the realigned Taverham Road, south of the proposed drainage basin, is suitable for Orsted's construction traffic requirements.</i>"</p> <p>The proposed agricultural field access is approximately 65m section north of the Norwich Road junction northern roundabout and approximately 170m south of the realigned Taverham Road cross of the River Tud. All the properties along Taverham Road are located north of the River Tud crossing, so the section within the Applicant's Scheme is not near to where residents live on Taverham Road.</p> |
| <p><i>Question to NCC Highways</i></p> <p>Please answer the question I asked originally. What is the nature / size and daily number of vehicles predicted to require this access along Taverham Road?</p> | <p>Access for Orsted construction traffic north of the Scheme's proposed agricultural field access and the River Tud bridge is part of the already Secretary of State approved Hornsea Project Three DCO, thus not part of the Applicant's Scheme and DCO application.</p> |
| <p>Will HE please indicate the number of new trees to be planted in the scheme and, more or less, the number of trees to be removed? It must be possible to provide these figures to within a few thousand / hundred - after all, how otherwise can the cost of the works be known?</p> | <p>ES Appendix 7.6 - Arboricultural Impact Assessment (APP-094) assesses the worst case scenario impact of design proposals for the Scheme on tree features. An update was submitted at Deadline 7 and concludes, 256 individual trees, 66 groups of trees and 27 hedgerows will require complete removal in order to facilitate the proposed Scheme. In addition, 63 tree groups and 42 hedgerows will require partial removal.</p> <p>Action LV3 in Table 3.1 of the Environmental Management Plan (APP-143) proposes measures to limit the impact of construction on existing trees and vegetation to be retained. LV4 Action requires replanting to mitigate loss of trees and based on the Environmental Masterplan (AS-037) provisional estimates are that more than 200,000 trees and woody shrubs and hedge plants will be planted. Delivery of these commitments are secured through the dDCO Requirements 4 'Environmental Management Plan' and 5 'Landscaping' (REP6-</p> |

| Comment | Applicant Response |
|--|---|
| <p>5. Heritage. HE is keen to state that the new road will be moved over 200 metres south of the existing A47 and away from properties near St Andrew's Church and the Taverham Road properties. The truth of the statement is actually that whilst the main road itself will be moved away that distance, the new junction to the north and its access roads are only half that distance further south and, crucially, they are being moved into a more direct visual proximity (vertically as well) with the residential properties. Noted that the second plan extract in the HE response did not include the residents that will be almost on axis with the junction.</p> | <p>006).</p> <p>While the mainline is 200m further south of the existing A467, the slip road in between is approximately 115m further south.</p> <p>However, the existing A47 and Taverham Road junction is located approximately 65m south of the River Tud bridge, whilst the northern side of the proposed new junction's northern roundabout is approximately 220m south-west of the River Tud bridge. Most residential properties on Taverham Road lie north of the Taverham Road's River Tud bridge, thus approximately 155m further from the new junction.</p> <p>In addition, as reported in the 'Applicant's Responses to Deadline 4 Comments' (REP5-016), cross sections were provided for the affected properties along Taverham Road. Visual effects identified in Year 15 on properties along Taverham Road are:</p> <ul style="list-style-type: none"> • Neutral adverse (no significant) visual effect on 3 properties at Church Farm (Visual Receptors at R33), on the west side of Taverham Road. • Moderate adverse (significant) effect on views from Viewpoint 7 and from four properties on the east side of Taverham Road opposite Church Plantation (Visual Receptors at R34) during construction and in Year 1 of opening. However, this reduces to slight adverse (not significant) at Year 15 of operation following establishment of mitigation planting beside the Scheme (including tree cover beside the drainage feature directly to the south of the receptor) limiting the visibility to at most glimpsed views. <p>Effects on specific visual receptors are assessed in ES Appendix 7.4 'Visual Receptors' (APP-092) and summarised on Figure 7.5, Rev. 1 (REP2-012).</p> <p>Sheet 14 of the Environmental Masterplan, Rev 2, (REP3-016) demonstrates provision of woodland and shrub planting north of Norwich Road Junction to supplement the retained mature trees north of the existing A47, as shown below, provide a visual screen to properties near Honingham Church and along Taverham Road.</p>  |

7 RICHARD HAWKER

7.1.1 Richard Hawker's comment on any additional information/submissions received by D5 (**REP6-028**) is available at the below link:
<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010038/TR010038-001417-submissions%20received%20by%20D5.pdf>

7.1.2 The Applicant's response to their comment is presented in the below table.

| Comment | Applicant Response |
|---|---|
| <p>Please can the proposed hours of operation during construction work be reviewed. Currently I believe they are 7am - 7pm Mon - Sat. Surely this is too long a time to expect locals to put up with the inevitable noise. 8am - 6pm Mon - Fri would seem much more reasonable. If Saturday working must be permitted, then surely some respite can be given in the afternoon; therefore just, say, working 9 - 12 on Saturday morning only, 2 Saturdays in each month.</p> | <p>The hours of construction have been proposed to both deliver of the Applicant's commitment to open the Scheme in 2025 and minimise the duration of construction disruption as far as practicable. Any reduction in working hours would increase the overall length of the construction programme, resulting in prolonged disruption to local residents and the surrounding road network.</p> |

8 WILD WINGS ECOLOGY

8.1.1 Wild Wings Ecology's responses to the ExA's further Written Questions (**REP6-029**) can be viewed at the below link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010038/TR010038-001394-DL6%20-%20Wild%20Wings%20Ecology%20-%20Responses%20to%20the%20ExA%E2%80%99s%20further%20Written%20Questions%20.pdf>

8.1.2 The Applicant's responses to their comments are presented in the below table.

| Comment | Applicant Response |
|--|--|
| <p>Our research has resulted in the discovery of what is one of the most important areas in the country for barbastelles, which are 'at imminent risk of extinction' (Mammal Society 2020). The research has revealed the presence of the first known barbastelle 'super-colony' in the UK (the 'Wensum Valley Super-Colony') with an estimated minimum population size of 270 barbastelles. It also includes the largest known extant roost in the country (≥ 105 barbastelles), one of >80 roosts identified to date as being used by the super-colony. The proposed NWL and much of the A47 dualling would pass through the 'core of the cores'; the critical area where the CSZs for each of the maternity colony woodlands overlap. In both summer and winter, barbastelle activity levels in this area are exceptionally high. As a result there is a very high risk that the proposed road schemes could have a substantial negative impact on this population, of significant national importance, which is vital to the future persistence of this threatened species.</p> <p>Evidence shows that bat mitigation measures on the NDR have failed and analysis of commuting routes in our study has revealed new evidence that barbastelles avoid using bat mitigation road crossing structures including green bridges and bat gantries.</p> | <p>Chapter 3 of document 9.25 'Additional Environmental Information' (REP6-019), issued at Deadline 6, provides a clarification on how ES Chapter 8 Biodiversity (APP-047) has considered the impact of the Scheme on barbastelle bats (<i>Barbastellus barbastella</i>), including their core sustenance zone, using survey data obtained for the Scheme and by others. The significance of any residual cumulative effect would be no greater than the residual effect of the large adverse residual effect of the Scheme alone.</p> <p>The main cause of the residual 'large adverse' impact of the Scheme on bats is due to the uncertainty around use of hop-overs in bat mitigation at the existing crossing points (https://www.conservationevidence.com/actions/980).</p> <p>Alternative mitigation measures were carefully considered, as discussed in response to Q3.0.13 within 'Applicant's Response to the Examining Authority's First Written Questions (ExQ1)' (REP2-014), submitted at Deadline 2.</p> <p>Q3.0.13 asked "ES Chapter 8: Biodiversity [APP-047] Table 8.14 identifies that there would be a large adverse and thus a significant residual effect on bats. Please provide further justification to demonstrate that all potential options have been fully explored to mitigate such effects?"</p> |
| <p>Given the exceptional importance of the Wensum Valley barbastelle population, we propose that key roost, foraging and commuting habitats should be robustly protected from future threats by designation of a barbastelle Special Area of Conservation (as required under The Conservation of Habitats and Species Regulations 2017).</p> | <p>The Applicant's response to Q3.0.16, on Pages 14 to 16 of the Deadline 2 Submission '9.6 Applicant's Response to the Examining Authority's First Written Questions (ExQ1)' (REP2-014) explains why the barbastelle colony should not be assessed as a Special Area of Conservation under The Conservation of Habitats and Species Regulations 2017.</p> <p>This has been supported by the below statement in the Report on the Implications for European Sites (RIES) (PD-014) issued by the ExA on 17 December 2021:</p> <p><i>"2.1.7 Wild Wings Ecology (WWE) as an interested party raised an issue concerning a potentially large colony of Barbastelle bats located within the area that may be affected [RR-084] and this concern is supported by the Norfolk Wildlife Trust [REP4-045]. Interested parties David Pett [REP1-027] and [AS-015], and Bryan Robinson [REP2-027] and [REP6-026] also raised the same issue. They consider that this colony of bats, given UK protected status by the Habitats Regulations, may be adversely affected by the application. <u>As this potential colony is not designated as a European site, nor has it been proposed as a candidate European site, this does not feature within this RIES.</u>"</i></p> |
| <p>It is imperative that cumulative impacts from the proposed A47 dualling, Norwich Western Link and off-shore windfarm cable routes, all of which would occur within the barbastelle super-colony's Core Sustenance Zone, are fully considered. The impacts of the Norwich Northern Distributor Road on the barbastelle population and failure of mitigation measures on that road scheme should also be carefully considered.</p> | <p>The cumulative impacts of the Scheme with the Norwich Western Link and off-shore windfarm cable routes are considered in the updated 6.9 Report to Inform Habitats Regulations Assessment, Rev.1 (REP6-008), submitted at Deadline 6. The potential cumulative impact does not elevate the large adverse level of impact already estimated for the Scheme; as discussed above.</p> |

9 TRANSPORT ACTION NETWORK

9.1.1 Transport Action Network's late submission accepted at the discretion of the Examining Authority (**REP6-035**) is available at the below link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010038/TR010038-001432-TAN%20letter%20about%20NH%20legal%20misrepresentation.pdf>

9.1.2 The Applicant's response to their comments is presented in the below table.

Summary and Additional comments

9.1.3 The ExA asked the parties: "To consider the implications of the High Court Judgment in the case of *R (on the application of Transport Action Network) v Secretary of State for Transport [2021] EWHC 2095 (Admin)*."

9.1.4 The Applicant accurately answered this question at Ref 5 in the Applicant's Written Summary of Oral Submissions at ISH2 (**REP4-**

015). The Applicant correctly stated that Dr Boswell had referred to the application for judicial review. Dr Boswell and Transport Action Network should retract their complaints. Apologies should be made to Ms Holmes and to National Highways. The documents already published should be notated in such a way as to make clear that the complaints have been withdrawn and apologies made.

| Comment | Applicant Response |
|--|--|
| <p>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.</p> | <p>This is a very serious allegation that the Applicant has deliberately misrepresented factual matters to the Examination. It is wholly unwarranted and wrong.</p> <p>Dr Boswell has withdrawn the allegations made at D6 (see Section 4 above and PINS reference AS-039), but a similar retraction has not been made by Transport Action Network (TAN). For that reason, the Applicant has responded to the points raised by TAN and requests that it also retracts its comments.</p> |
| <p>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.</p> | <p>Although TAN was the party which made the application for judicial review, it appears to take issue with the references to an application. It fails to understand that it made an application for judicial review which was dismissed by Mr Justice Holgate.</p> <p>The Applicant understands that TAN sought permission from Mr Justice Holgate to appeal his judgment to the Court of Appeal, which permission was refused. Consequentially, an application for permission to appeal has been made directly to the Court of Appeal.</p> <p>The Applicant has not asserted that the challenge was dismissed at the permission stage. The extract from the Applicant's Written Summary of Oral Submissions at ISH2 (REP4-015) that TAN quotes and highlights makes clear that the hearing was the substantive application for judicial review.</p> |
| <p>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.</p> | <p>As set out above, and accepted by Dr Boswell by his retraction, the Applicant has not misrepresented the position.</p> |
| <p>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.</p> | <p>For the reasons set out, and accepted by Dr Boswell by his retraction, the Applicant has not made any such misrepresentation. The factual position set out to the Examination was entirely accurate.</p> |