



National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Customer Services:  
e-mail: 0303 444 5000  
GYTRC@planninginspectorate.gov.uk

---

All Interested Parties

Your Ref:

Our Ref: TR010043

Date: 25 February 2020

---

Dear Sir/Madam

**Planning Act 2008 (as amended) – Section 89 and the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 9**

**Application by Norfolk County Council for an Order Granting Development Consent for the Great Yarmouth Third River Crossing project**

**Notification of Procedural Decision in respect of three proposed changes (NMC 1-3) to the application (REP4-003)**

**Decisions**

The Examining Authority (ExA) has decided to accept three non-material changes (NMC) to the application put forward by the Applicant. These are as follows:

- Change NMC 1 – Removal of proposed waiting restrictions on the east side of Southgates Road / South Denes Road;
- Change NMC 2 – Reduction to the extent of the proposed waiting restriction on the north side of the access road to the Kingsgate Community Centre (Queen Anne's Road), and
- Change NMC 3 – Provision of a disabled parking bay within the proposed new parking area on the south side of Cromwell Road.

A more detailed explanation of the changes can be found in Chapter 2 of the Applicant's Consultation Report on the Proposed Non-Material Changes to the Application submitted at Deadline 5a (the Consultation Report) [REP5a-002].

The ExA considers that the proposed changes represent non-material changes to the original application dated 30 April 2019. The changes are minor in their nature and extent. Subsequently they do not alter the substance of the development which was originally applied for.

The Applicant is required to submit the requisite documentation in support of these non-material changes, as set out in the Consultation Report by the close of the Examination. These Procedural Decisions are made under section 89(3) of the Planning Act 2008 (PA2008). The background to, and the ExA's reasoning for, these decisions is set out below.

## **Background**

The Applicant's letter submitted to the Planning Inspectorate on 28 November 2019 [REP3-002] gave notice of its intention to propose non-material changes to the application. The ExA responded on 10 December 2019 [PD-008]. The Proposed Changes Application was submitted at Deadline 4 [REP4-003] on 11 December 2019. This comprises the Applicant's request to the ExA to accept into the examination of the application the three proposed changes to the Proposed Development for which development consent is sought. Following this, the timetable was varied on 19 December 2019 [PD-010] to add new deadlines to allow the pertinent documents to be submitted.

The Applicant subsequently submitted at deadline 5a (28 January 2020) the previously requested Consultation Report [REP5a-002]. The Applicant confirmed that non-statutory consultation on the proposed changes took place between 13 December 2019 and 14 January 2020. This involved: The issuing of consultation letters to parties identified by the Applicant; the publication of the notices in a local newspaper; the erection of notices at key locations in the vicinity of each of the proposed changes; publicity on social media and copies of the change application being made available on the Applicant's project page and in paper format in three libraries local to the scheme.

The Consultation Report included an analysis of the consultation responses. The only proposed change for which a request for a minor change was received was NMC 3. The Applicant's post-consultation position in relation to NMC 3 is as follows:

**NMC 3** – *The provision of a 6.6. metres long disabled parking bay (available at all times) to be located at the western end of the proposed parking bays which are proposed in the DCO Application to be provided along the southern side of Cromwell Road.*

NMC 3 is amended to replace the word 'western' with the word 'eastern'.

No changes are sought to the other NMC's following consultation.

Additional comments on the proposed changes to the Proposed Scheme were received at Deadline 5a from Norfolk County Council, who had no objections, and the Marine Management Organisation, who had no comments.

## **The Examining Authority's reasoning**

In making this decision, the ExA has taken account of the guidance in paragraphs 109 to 115 of DCLG Guidance<sup>1</sup> for the examination of applications for development consent and the Planning Inspectorate's Advice Note 16: How to request a change

---

<sup>1</sup> The Department for Communities and Local Government Planning Act 2008: Guidance for the examination of applications for development consent, available at: <https://www.gov.uk/government/publications/planning-act-2008-examination-of-applicationsfor-development-consent>

that may be material<sup>2</sup> (AN16). Paragraph 113 of the DCLG guidance makes specific reference to the principles of fairness and reasonableness set out in the Wheatcroft case. Paragraph 2.5 of AN16 refers to the case of Holborn Studios and the need for consultation. Paragraph 109 of the DCLG Guidance accepts that applicants may need to change a proposal after an application has been accepted for examination and gives examples of reasons why such an application might be made. However, that list is neither exhaustive, nor is it intended to preclude other circumstances that might lead to changes.

The Proposed Changes Application explains that since the application was submitted the Applicant has continued to engage and negotiate with those with an interest in land affected by the Proposed Development and with other Interested Parties. The three changes now proposed are as a result of that engagement and negotiation.

### ***The materiality of the Applicant's proposed changes to the application***

The ExA has taken into account the explanation for the changes provided by the Applicant and the significance of the changes in the context of the original application as a whole. The proposed changes are however all localised in their effect and would not materially change the effects of the Proposed Development on the local community. No concerns have been raised by IPs nor would there be any Compulsory Acquisition implications.

In environmental terms the proposed changes have been reviewed and appraised in the context of the original Environmental Impact Assessment and none of the proposed changes have been found to result in any new or materially different likely significant effects in comparison to those assessed and reported in the Environmental Statement [APP-096 to APP-173].

Based on the foregoing the ExA concludes that the changes represent non-material changes to the application, and I do not believe that their acceptance would result in a materially different project being considered.

### ***Whether the changes can be fairly accepted and examined***

The ExA recognises that in accepting the proposed non-material changes it needs to act reasonably, in accordance with the principles of natural justice and those arising from the Wheatcroft case. It must be satisfied that anyone affected by the changes should have a fair opportunity to have their views known and to have those views properly taken into account.

To that end, the Applicant has undertaken consultation on the proposed changes on a non-statutory basis. The scope of the consultation is set out in Chapter 3 of the Consultation Report. The consultation sought to engage all persons identified in the PA2008 under section 42(1)(a), (b) and (d) who would be affected by the proposed changes.

The consultation process invited those persons notified to submit their responses direct to the Applicant who, in turn, included these in the Consultation Report

---

<sup>2</sup> Available at: <https://infrastructure.planninginspectorate.gov.uk/wpcontent/uploads/2015/07/Advice-note-16.pdf>

provided to the ExA at Deadline 5a in the Examination Timetable. The comments upon that report were received at Deadline 6.

The ExA is satisfied that the consultation procedure and the Examination Timetable has enabled everyone who would have wished to comment upon the changes an opportunity to do so and that the impacts associated with the changes to the application can be fairly considered.

Given the non-material nature of the changes proposed, the reasons for those changes being put forward, the amendment made as a result of the consultation process, the opportunities already afforded for comments on those changes and the content of those comments, I do not consider that their acceptance at this stage of the Examination would be unfair.

## **Conclusions**

The ExA considers that the acceptance of the changes NMC 1, NMC 2 and NMC 3 would represent non-material changes to the original application. I do not consider, in the context of the whole application, that the materiality of the changes applied for, whether considered on their own or cumulatively, are of such a degree that it constitutes a new application. I am further satisfied that the Wheatcroft principles have been met and that the changes can fairly be considered within the scope of the original application

The Applicant is required to submit the requisite amended documentation incorporating these changes by deadline 7, Tuesday 3 March 2020, as set out in the varied timetable of Annex A to my letter of 19 December 2019 [PD-010].

All parties should note that, following deadline 7, I may decide to close the Examination before the end of the six-month period if I am satisfied that all relevant matters have been fully addressed. In such a case I would write to all Interested Parties to inform them that the Examination had been completed.

If you have any questions about the content of this letter, please contact the Case Team on the details above.

Yours faithfully

*Dominic Young*

**Dominic Young**  
**Examining Authority**