

On behalf of the 1st, 2nd & 3rd Defendants
Witness Statement: 1st
By: Richard James Doleman
Exhibits: RJD1-RJD12
Date: 26 July 2011

Case ref CO/3983/2011

IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
ADMINISTRATIVE COURT

BETWEEN

Stephen Heard

Claimant

v

**(1) Broadland District Council
and
(2) South Norfolk Council
and
(3) Norwich City Council**

Defendants

**Witness Statement
of Richard James Doleman**

I, RICHARD JAMES DOLEMAN, of County Hall, Martineau Lane, Norwich, Norfolk, NR1 2SG, Principal Transport Planner, STATE as follows

1. I have been working with the Greater Norwich Development Partnership since it was established in 2006 in my capacity as a Principal Transport Planner employed in the Economic Development and Strategy Unit of Norfolk County Council. I am duly authorised by the Defendants to make this witness statement in response to the application by the Claimant pursuant to section 113 Planning and Compulsory Purchase Act 2004 to quash the Joint Core Strategy for Broadland, Norwich and South Norfolk, adopted on 22 March, 2011 ("the JCS") to the extent that it is necessary to do so in order to reconsider growth and in particular housing and related transport provision in Broadland District.
2. From the beginning of the work on the JCS, I was one of the principal officers responsible for the preparation and formulation of the document which was ultimately adopted in March, 2011. I was involved in all of the

preparatory stages prior to and including the publication of the proposed submission version of the JCS and its subsequent submission.

3. I attended the Exploratory Meeting held by the inspectors appointed to examine the JCS, and was fully involved in the subsequent work, including the preparation of the subsequently advertised Statement of Focused Changes
4. I am familiar with the documents that were produced by the councils in preparing the JCS, and with the documents submitted by other parties as part of the Examination process.
5. I am familiar with the guidance published by or on behalf of the Secretary of State for Communities and Local Government on the preparation of development plan documents, including the requirements to undertake Sustainability Appraisal and Strategic Environmental Assessment at appropriate stages in the preparation of development plan documents.
6. I am aware that separate Witness Statements are being prepared by Roger Burroughs and Philip Morris, who were also involved throughout the preparation of the JCS, responding to Grounds 1 and 3 of the claim.

Scope of Statement

7. In this Witness Statement, I seek to provide the context and evidence for proper consideration of the Claim in relation to Ground 2. There is now produced and shown to me a bundle of documents marked as RJD 1 to RJD 12, copies of which are attached to this witness statement and to which I will refer to as appropriate. I will also refer to the documents exhibited by the claimant, and in particular the Witness Statement of Stephen Heard, as appropriate. I do not propose to address the matters of law raised by the claimant, except to the extent necessary to explain the relevant context.
8. The second ground of the challenge concerns the adequacy of the sustainability appraisal to assess the Northern Distributor Route (“NDR”) in relation to the preparation of the Joint Core Strategy. The Claim asserts that the NDR was not assessed at all as part of the process.
9. This is not an accurate reflection of the development plan process. At the time of the preparation and adoption of the JCS, the NDR was already Regional and County Council policy and was in the adopted Norwich Area Transportation Strategy (“NATS”) and Norfolk’s Second Local Transport Plan (“LTP 2”). The NATS was itself already part of the Regional Spatial Strategy policy for this area. Furthermore, both the NATS and the LTP have been subject to Strategic Environmental Assessment to inform their development and this work was part of the baseline for preparation of the JCS.

The existing transport policy context for the JCS

10. Prior to work commencing on the joint core strategy the County Council carried out considerable work on NATS and the NDR. Guidance on the transport policy that should underpin a Core Strategy and what it should take account of in its development can be found in Planning Policy Guidance Note 13 (Transport).
11. Paragraph 20 of Planning Policy Guidance Note 13 (Transport) as reissued in 2011 says *“Local authorities should seek to ensure that strategies in the development plan and the local transport plan are complementary: consideration of development plan allocations and local transport priorities and investment should be closely linked.”*
12. PPG13 paragraph 7 says: *“To assist in the co-ordination of transport and land use planning, local planning and highway authorities should have regard to the regional transport strategy which forms part of the regional planning guidance. Regional transport strategies provide the long-term strategic framework which informs development plans, local transport plans and transport operators in developing their plans and programmes.”*
13. The relevant regional plan for the Greater Norwich Area is the East of England Plan (“EEP”, May 2008; the EEP exhibited to the witness statement of Roger Burroughs (REB7)). Policy NR1 of the East of England Plan relates to growth focussed on Norwich. The final paragraph of Policy NR1 states that

‘Requirements for transport infrastructure arising from development in the Norwich area should be determined having regard to the Norwich Area Transportation Study, which provides a strategy for improving access by all modes of transport across the Norwich policy area.’
14. The EEP also contains the Regional Transport Strategy. Policy T15 (Transport Investment Priorities) says

“Investment programmes should be regularly reviewed to ensure they deliver the infrastructure and services necessary to support the RSS. Investment in transport should be prioritised according to its contribution to the RTS objectives and outcomes in Policy T1, the priorities and objectives in Policies T2 to T14, and the transport priorities in the policies for sub-areas and key centres for development and change. Reviews of Local Transport Plans and future prioritisation exercises for transport investment should reflect these priorities. Appendix A lists the regionally significant transport investment currently programmed for the region.”
15. The NDR is included in the lists contained in Appendix A of the EEP, "Strategic Transport Infrastructure Priorities". This Appendix lists the

regionally significant transport infrastructure that has been built since the start of the RSS plan period (April 2001), those that are under construction and those that are programmed for delivery. The NDR is included in table 4, which is the list of schemes that are *"identified in the Regional Funding Allocation, [and] are not yet approved. Full business case submissions and value for money appraisals will need to be made. Future funding may be provided through a number of Government streams (LTP, CIF, TIF etc) or it may come from developer contributions."*

16. Both the NATS and the NDR are contained in Norfolk County Council's Second Local Transport Plan (LTP2) which was agreed by the Council in February 2006 for submission to the Department for Transport.
17. The Town and Country Planning (Local Development) (England) Regulations 2004 part 4 Regulation 15 sets out additional matters to which regard to be had. Regulation 15(1)(b) says *"any local transport plan, the policies of which affect any part of the local planning authority's area"*
18. Work on issues and options for the Joint Core Strategy started in 2007. At that time, PPS 12 (2004) was the relevant national policy document to shape the preparation of the JCS. Further interpretation of PPS12 was contained in "Creating Local Development Frameworks, A Companion guide to PPS12". At section 2.5, Integration with other bodies and strategies, the Companion Guide sets out in the 3rd paragraph the need to have regard to local transport plans:

"Local development frameworks, reflecting spatial objectives, must have regard to other relevant policies and strategies at local and regional levels, particularly community strategies (see Checklist 8a). The local development framework should be informed by an assessment of the land use implications of other relevant policies and programmes including economic development, regeneration, education, health, crime prevention, waste, recycling and environmental protection. In addition, authorities must have regard to local transport plans."
19. In preparing the joint core strategy, regard was paid to the work that had been carried out by the County Council in preparing its Local Transport Plans and the Major Scheme submission for the Northern Distributor Route.

Environmental Assessments of the Norwich Area Transportation Strategy (NATS) and the Local Transport Plan (LTP 2)

20. Environmental assessment was incorporated in the development of NATS, and LTP2.
21. NATS (RJD1) was subject to the strategic environmental assessment process ("SEA"), even though this was not a requirement under the newly-introduced legislation. It could have been argued that SEA was not required by virtue of the date for its introduction as related to plans and strategies that were already in preparation. The SEA of NATS was published in October 2004. It considered 6 strategy options.
 1. Full Northern Distributor Road, with complementary transport measures;
 2. ½ Northern Distributor Road, with complementary transport measures;
 3. ¾ Northern Distributor Road, with complementary transport measures;
 4. Bus based public transport improvements;
 5. High-quality public transport improvements; and
 6. Measures to encourage modal shift and reduce the need to travel.
22. The Transport Act 2000 placed a duty on the County Council to produce a local transport plan. Furthermore the act required the county council to produce a replacement by 31 March 2006. This replacement is known as the Second Local Transport Plan (LTP2) (RJD2). The County Council commenced work on its second Local Transport Plan in December 2003. In accordance the European Directive 2001/EC/42 a Strategic Environmental Assessment was undertaken on the LTP2. When the *Second Local Transport Plan for Norfolk* was adopted in 2006, an Environmental Statement was prepared and included within the main body of the LTP (Chapter 2: Environmental Statement). That statement gives a summary of the SEA, its effects on LTP2 and the broad stages and timing of its preparation.
23. The Local Transport Plan SEA report was published by Norfolk County Council in March 2006. The report describes in detail the work carried out for the SEA and its relationship to the preparation of LTP2. Section 4.3 assesses the major schemes in the transport plan, those being Long Stratton Bypass and the NDR. Table 4.3.3 in section 4.3.3 summarises environmental effects of the LTP2 with and without the major schemes. The extract is exhibited as RJD3
24. These assessments demonstrate that the work to develop NATS and the LTP2 has been subject to environmental assessment and both of these assessments have considered the reasonable options with and without an NDR. Furthermore that assessment work was carried out before commencement of work on the Joint Core Strategy.

Assessment of the NDR as a major scheme

25. Evidence on the NDR was submitted as part of the evidence base for the JCS, including as part of the Infrastructure Delivery Plan. A considerable amount of preparatory work had been done on the NDR scheme itself, and this was included in the evidence

- T6 Norwich Area Transport Strategy (NATS) Review: Transport related problems and issues (April 2003)
- T7 Norwich Area Transport Strategy: Public Consultation Analysis (May 2004)
- T8 Norwich Area Transport Strategy: Public Consultation Analysis (June 2004) Supplement
- T9 Norwich Area Transport Strategy: Options Assessment Report (October 2004)
- T10 Norwich Northern Distributor Road Traffic and Economic Assessment Report (February 2005)
- T11 NNDR Report to Cabinet – Appendix 3: Statement on Justification of Needs (September 2005)
- T12 Major Scheme Business Case: Norwich Northern Distributor Road (July 2008)
- T13 Postwick Community Infrastructure Fund: Full Business Case (October 2008)
- T14 Norwich Northern Distributor Road: DfT Sensitivity Tests
 - (i-ii) Core Scenario (December 2009)
 - (iii-xiii) Dependent Development (December 2009)
 - (ix-x) Part NNDR from A140 to A47 (December 2009)
 - (xi-xvi) Tests 2-6 (December 2009)

26. JCS library documents T12, T14 and T14 were written to support the case for government funding for the NDR. They were introduced to the JCS public examination to demonstrate the progress on delivery of the NDR. T6-T11 outlined preparatory work on NATS and NDR including consultation and option assessment.

27. Through the work to develop the NDR as a scheme, the County Council has followed the guidance for designing and assessing a scheme as set out in the Design Manual for Roads and Bridges (DMRB) published by the Department for Transport. Volume 11 of DMRB sets out the environmental assessments to be undertaken in road scheme preparation. The Environmental assessments of the NDR have followed DMRB guidance. The contents page of DMRB volume 11 is exhibited as RJD4. The Stage 1 assessment also known as Scoping looked at the corridor options. The Stage 2 Assessment also known as Simple looked in more detail at route options. This was drawn together with other assessment work in a report to County Council Cabinet on 19 Sept 2005. That report summarised the assessment work that had been undertaken to inform the Council's decision on route choice. Volume 1 of the NDR Major Scheme Business Case (T12 in the list above) outlines the work undertaken on alternative options and is attached as exhibit RJD5. Habitat Regulations

Assessment (Task 1) of the NDR has been conducted. An Appropriate Assessment (Task 2) is being undertaken.

28. The planning application will also be accompanied by an Environmental Impact Statement.

The development of the transport-related policies in the JCS

29. Roger Burroughs' Witness Statement deals in detail with the SA of the JCS. As he mentions, paragraph 4.7 of the EU guidance advises that it may be appropriate to summarise earlier material But there is no need to repeat large amounts of data in a new context."
30. The extensive work on NATS and the LTP2 has already had the benefit of environmental assessment. The regional strategy (the EEP) has embraced NATS as a matter of policy. In line with the companion guide for PPS12 section 2.5 3rd paragraph, work on the JCS took the extensive work on NATS and LTP2 to be part of the baseline for development of the Joint Core Strategy. The assessments of the JCS have not sought to reassess NATS or the NDR as they and the LTP2 have been subject to their own full assessments prior to those of the JCS.
31. The work on the JCS has not sought to determine the fine detail of NDR or design and justify it in that sense. That is for the NDR business case and the planning application. The assessment through the JCS process tested the appropriateness of NATS as a whole and the relevance of NDR within that strategy. Specific matters were raised by inspectors and the GNDP provided responses. There were also representations made by parties such as NNTAG (but not by SNUB) challenging the NDR at various stages of preparation of the JCS.
32. The need for the NDR was debated thoroughly at the Examination in Public. Issue 6 of the Inspectors' report on the examination into the JCS summarised this debate. Specifically debate on the alternatives to the NDR is summarised in Paragraph 51 and it says "*It has been argued that a non-NDR package of NATS interventions has not been modelled and that this would conceivably produce a better overall solution. However we are not convinced that such an option would be realistic and place weight on the DfT's favourable 'in principle' assessments and the judgements which led to the NDR's acceptance into Programme Entry' and the Development Pool' as discussed above*"
33. Indeed it can be said that as an element of infrastructure to support the JCS the NDR was the most debated and examined, much more so than other transport or development critical utility infrastructure.
34. The Joint Core Strategy reflects the pre-existing position with regard to the NDR recognising its place in County Council policy. At the examination the inspectors asked the GNDP to consider the representation of the NDR on the proposals maps. The GNDP produced a note for the Inspectors and

this is attached as exhibit RJD6. The note proposes the Inspectors consider minor textural changes to JCS paragraph 5.44 and the proposals maps to show the route of NDR currently protected by the County Council. The modified proposals maps do not show specific detail of alignment or junction form. The proposals map 'NDR and Postwick Hub' is attached as exhibit RJD7.

The SA of the JCS and its consideration of the NDR

35. Early work to define the JCS started in July 2007, by which time the NDR was well embedded as an element of NATS. It was also being promoted by the County Council as a Major Scheme (those over £5m), and was identified as such within the adopted LTP2. The work on the Stage 1 and 2 environmental reports as required by DMRB volume 11 environmental assessment had also been produced for the NDR by this stage.]
36. Initial work on JCS 'issues and options' stage took the form of initial topic papers that were introduced through stakeholder workshops. The 'Access and Connection' workshop took place on 5th July 2007 and a topic paper was produced and circulated prior to the event. That topic paper clearly set out in section 4 (Current position), the background to LTP2, NATS and the NDR that had been taken forward into the development of the Joint Core Strategy. The Topic Paper is attached as exhibit RJD8
37. The outcome of the workshops were recorded and collated. The output of the workshops was taken forward to inform the production of the issues and options consultation document.
38. The issues and options public leaflet distributed to all households showed the route of the NDR. The longer consultation document identified the NDR as a strategic transport priority, and it refers to the growth infrastructure needs and to the funding study that found NATS and NDR to be a sound basis for managing transport pressures of growth.
39. All 10 of the potential growth locations were subject to SA. The SA did not seek to repeat the assessment work carried out for NATS or LTP that had been assessed in the own right. The SA of these locations considered NATS and the NDR as part of the supporting infrastructure and provided its conclusions on these growth locations taking NATS as part of the baseline. The assessment also drew locations together into growth options to meet the scale of growth proposed in the EEP.
40. In 2008, the planning legislation governing the preparation of development plan documents changed and so the work on the preferred option stage was used to inform work under the new Regulation 25 stage.
41. Section 6.2 of The 'Regulation 25' Public consultation (carried out in March 2009 – June 2009) referred to the NDR and the implementation of NATS in a list of critical infrastructure requirements for growth. Policy 16 (strategic access and transportation) identified the NDR as one of the

transport interventions the JCS would promote and the reasons for doing so. Question 24 of the consultation asked if respondents agreed with the policy, which gave the opportunity for the public to provide a view on the approach taken.

42. The proposed submission JCS (Nov 2009) contains a key diagram of the Norwich area Transportation Strategy (p61) and it shows the route of NDR, key cycle routes, bus rapid transit corridors and core bus routes that reflected the implementation plan agreed by County Council cabinet on 6 April 2010. Policy 9 (Growth in the Norwich Policy Area) embeds these key transport elements in policy. The NATS Implementation Plan was also subject to Strategic Environmental Assessment in 2010. This included the NDR and associated measures. An Appropriate Assessment (now known as Habitats Regulation Assessment), Task 1 has been carried out on the NATS IP by NCC.
43. The pre-submission version of the JCS was supported by an evidence base that included the Growth Infrastructure and Funding study (2009). The report identified the necessary infrastructure and sought to prioritise it. Both the NDR and the improvements to the Postwick junction were assessed as being critical infrastructure in that report.
44. When the JCS was submitted for examination, it was supported by further transport evidence examining the relationship between NDR and NATS, the case for the NDR and the ability of NATS to manage the travel demand arising from growth including the ability to implement this. The evidence was summarised in the hearing statements submitted by the GNDP with regard to the Inspectors' Matters 3a, 3b and 5. These are exhibited to my statement as RJD9, 10 and 11.
45. The appropriateness of NATS and NDR to manage the required growth and to meet the objectives of the development plan was robustly debated at the examination.

Responses to detailed grounds of claim 2.

46. The Amended Details of Claim make a series of criticisms of the JCS and the SA. I have set out the relevant evidence with regard to most of these points already, but there are some additional matters that are raised.
47. Paragraph 32 of the Amended Claim refers to Policies 6,9 and 10 of the JCS. These policies refer to what the transport dependencies are of the growth that is proposed in the JCS. This growth is dependent on the successful implementation of NATS and the NDR. As I have set out above, NATS including NDR has been subject to its own assessment in 2004. The Local Transport Plan which incorporates NATS and promotes NDR was subject to assessment in 2005.
48. Paragraph 33 refers to the assessment of the NDR in the SA under objective ENV1. The assessment shows that, in order to achieve the

objectives stated, careful attention will need to be paid to the layout and design of the Growth Triangle. The JCS is a high level strategy, and so it has not looked and would not be expected to look at the layout of these growth areas. It is not possible for the SA to look into greater detail than what the development plan document it is assessing proposes, but the SA does flag up the issue for future assessments.

49. The Old Catton, Sprowston, Rackheath and Thorpe St Andrew Growth Triangle (the Growth Triangle) will be brought forward through a separate development plan document as an Area Action Plan. This will examine the pattern of development in more detail and will itself be subject to sustainability assessment. That further layer of assessment will act as a safeguard to test whether the AAP enables the broader objectives of the JCS to be met.
50. With regard to paragraphs 34 and 35 of the Amended Claim, the SA objectives 3, 5 and 6 for the LTP2 explore very similar issues to the SA objectives ENV3, ENV4 and ENV5 for the JCS. The assessment of the NDR against the relevant SEA objectives was set out in table 2.2 of the SEA of LTP2, which is exhibited as RJD12. These objectives for the LTP2 were:
- Objective 3 - To minimise noise, vibration and visual intrusion from transport.*
- Objective 5 - To implement transport solutions that minimise impacts on landscape, biodiversity, and water resources*
- Objective 6 - To maintain and enhance the character of the townscape and cultural Heritage*
51. With regard to Paragraphs 36 and 37, the key recommendations of the Report highlight that the success of NATS and its ability to achieve its objectives will be dependant on the form in which the growth triangle is delivered to take advantage of the opportunities presented by NATS. The JCS does not consider this detail, but there will be a full consideration through the AAP of the Growth triangle and its accompanying assessment work.
52. Paragraph 38 of the Amended Claim makes the point that the alignment of the NDR was not assessed. The Core Strategy is not the appropriate stage at which to assess the alignment of a particular road. The NDR is part of the infrastructure that will ensure that the development planned in the JCS can be delivered in the plan period. The NDR itself is not included as a specific policy in the JCS, and it was only indicated on the Proposals Map as the corridor already protected by the county council. Paragraph 36 of my witness statement has addressed this point.
53. To the extent that it is relevant at this strategic stage, the evidence base included NDR, the Major Scheme Business Case the outlines the assessments and alternatives undertaken in developing the scheme. The

County Council adopted a preferred route in September 2005 and it is shown in Local Searches

54. As regards paragraph 39, the work to develop NDR and NATS has looked at the reasonable alternatives and environmental assessments were carried out for both NATS and NDR. This work has been used to inform production of the JCS which includes the NDR in its baseline.
55. The JCS has not been assessed without an NDR. The JCS does contain at paragraphs 7.11 to 7.18 a contingency strategy to set out how the delay or the non-delivery of the NDR will be managed. It is clear that non-delivery of the NDR will require a review of the JCS strategy and a new assessment would be carried out at that time. The further effects of a partial delivery of NATS will be explored through the AAP for the Growth Triangle, which will be subject to its own SA.
56. Any review of the joint core strategy would need to be accompanied by environmental assessment that would explore and divergences from LTP or NATS and assess them as appropriate.

Conclusion

57. The Greater Norwich Development Partnership local planning authorities, throughout the process, have rigorously undertaken Sustainability Appraisal and Strategic Environmental Assessment to assist them in developing the most appropriate strategy to deal with the future growth of the area. The assessments have taken account of earlier work carried out for LTP 2 and NATS.
58. The JCS has been in production since 2007, involving substantial investment of public resources and finances. All documents have been made available at relevant stages in the strategy's preparation. The claimant made representations at the early Issues and options stage, and was clearly aware of the process. At no stage did the claimant directly raise the specific issue of alleged deficiencies in the SA as an issue of legal compliance. In addition, the Councils were not informed of the claim until the final day of the challenge period.
59. The issue of the NDR and the role of NATS was discussed at the examination hearings. There were representations before the Inspectors from the Norfolk and Norwich Transport Action Group focusing on the central role of the NDR in the transport strategy. Related objections of this nature were also submitted in response to a range of policies and the S. A. This ensured that the matter was considered by the inspectors, provoking a detailed discussion at the examination.
60. The facts as stated in this Witness Statement are true to the best of my knowledge information and belief.

Signed:.....

RICHARD JAMES DOLEMAN

Date:.....