

On behalf of the 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> Defendants  
Witness Statement: 1<sup>st</sup>  
By: Philip John Morris  
Exhibits: PJM1- PJM5  
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**

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**Witness Statement  
of Philip John Morris**

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I, PHILIP JOHN MORRIS, of County Hall, Martineau Lane, Norwich, NR1 2SG, Principal Planner, WILL SAY 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 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 on their behalf. This witness statement is made in response to the proposed new ground that has been raised by the Claimant in his Amended Details of Claim on 6<sup>th</sup> July 2011, as part of his application 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.
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. I also appeared as a witness for the Councils at the Independent Examination into the JCS.
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 governing on the preparation of development plan documents, including the requirement for Core Strategies to conform generally with the Regional Spatial Strategy for the area.
6. I am experienced in issues of general conformity of development plans. I was engaged on the review and implementation of the Norfolk Structure Plan from 1987 until its demise following the Planning and Compulsory Purchase Act 2004. In that time, my responsibilities included assessing and providing advice on the general conformity of Local Plans with the Structure Plan.
7. In this Witness Statement, I seek to provide the context and evidence for proper consideration of the proposed new ground of the Claim, on the assumption that the Court may give permission for it to be added to the Claim. There is now produced and shown to me a bundle of documents marked as PJM 1 to PJM 5 and REB 7, 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. Since the proposed additional ground essentially concerns whether the Inspectors have acted correctly as a matter of law, I have referred to my understanding of the legal context to the extent that it is necessary to do so.
8. I am aware that separate Witness Statements are being prepared by Roger Burroughs and Richard Doleman who were also involved throughout the preparation of the JCS responding to Grounds 1 and 2 of the claim and the claim in general.
9. I do not agree that the Inspectors failed to consider the issue of whether the JCS was in general conformity with the Regional Strategy (or the Regional Spatial Strategy, as it used to be called).
10. The East of England Plan is the Regional Spatial Strategy for the area and remains part of the statutory development plan. It was a legal requirement that the JCS should be in general conformity with the East of England

Plan. At the time the JCS was submitted for examination, the East of England Regional Assembly (“EERA”) was the Regional Planning Body with the responsibility for issuing statements of general conformity.

11. As the competent authority, EERA confirmed on the 11 December 2009 that “the Joint Core Strategy for Broadland, Norwich and South Norfolk Proposed Submission document is in general conformity with East of England Plan” (exhibit PJM 1). This statement accompanied the submission of the JCS to the Planning Inspectorate. In my experience, if there had been any doubt about general conformity this would have been addressed by EERA in their representations and these would have been treated as an objection to the JCS.
12. Following submission of the JCS, the Inspectors held an exploratory meeting on 13 May 2010. The exploratory meeting was held prior to the Government’s decision to revoke all the regional spatial strategies (RSS) on 6 July 2010. General conformity was not raised by the Inspectors as a matter of concern at the exploratory meeting. (the inspectors notes of the exploratory meeting are attached as exhibit PJM 2)
13. At the beginning of the hearing sessions on 9 November 2010, the RSS had apparently been revoked. However, the Cala Homes judgement was released on the 10 November 2010, the second day of the Hearings. This judgment quashed the government’s decision, and the RSS were confirmed as being part of the statutory development plan. The Secretary of State’s statement on the judgement and the judgement itself were provided to the examination as documents RF11a and RF11b.
14. As a matter of some importance, the re-instatement of the East of England Plan and the need for the JCS to conform generally to it was discussed. There was some discussion on this changing context on 10 November and at various times through the rest of the oral hearings. Participants on the 10 November included Mr Pugh-Smith (Counsel for one of the objectors), Mr William Upton (Counsel for the GNDP) and representatives of SNUB (the claimant’s organisation).
15. I can find no evidence that the issue of general conformity was challenged in subsequent written examination statements. Issues of general conformity with the East of England Plan were therefore considered at the examination but were not a significant issue for objectors.
16. The Introduction to the Inspectors’ Report clearly states that it contains their “assessment of the Joint Core Strategy (JCS) for Broadland, Norwich and South Norfolk Development Plan Document (DPD) in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004. It considers whether the JCS is compliant in legal terms ...” (para 1).
17. In paragraph 124 the Inspectors conclude that the JCS meets all legal requirements and in particular that the JCS complies with the “2004 Act and Regs (as amended)”. In their overall conclusion at paragraph 125,

they conclude that the JCS as modified “satisfies the requirements of s20(5) of the 2004 Act”.

18. The Inspectors did not consider that any of the legal compliance issues were one of the main soundness-issues with regard to this particular development plan. They identified the main soundness-related issues that they considered that they needed to address in their Report (as explained in their paragraph 5).
19. I am not surprised to see them deal with the issue of legal compliance in this short form. The new development plan process under the Planning and Compulsory Purchase Act 2004 has led to a different style of report being required. The Planning Inspectorate have explained what can be expected in their guidance, “Local Development Frameworks- Examining Development Plan Documents Procedure Guidance” (the relevant extracts are exhibited as PJM 3). They will concentrate on reaching clear conclusions on the compliance requirements of the 2004 Act and Regulations and meeting the legal requirements of soundness, and on setting out precise binding recommendations on any changes required to the policies and text (para 6.1). As their guidance makes clear, the report will be as short as possible whilst ensuring that it is clearly reasoned to justify the conclusions.
20. It is also not a report that is similar to the reports that used to be produced into the objections to local and structure plans under the 1990 Act. The Inspectorate’s Guidance makes this clear:

6.3 Noting that we are not dealing with ‘inquiries into objections’, reports will not summarise the cases of individual parties, should avoid as far as possible direct references to specific representations and should not describe discussions at the hearing sessions. The report will explain why the Inspector, based on a consideration of all the evidence and his/her professional expertise and judgment, has reached a particular view on legal compliance and soundness
21. I consider that the Inspector’s Report reflects the lack of challenge to general conformity and the context provided by the Overview of the Procedure Guidance (paragraph 8 of PJM 3):

8. The Inspector assesses the whole document for legal compliance and soundness – this means dealing with the main issues which go to the heart of the DPD, and not getting involved unnecessarily with the details of the plan. The examination must centre on the issues identified by the Inspector having regard to the requirements of legal compliance and the 3 soundness tests.
22. The Inspectors’ Report does make numerous references to the East of England Plan (a word search on “EEP” finds 57 occurrences in the report and its appendices):

1. The changing status of the East of England Plan is specifically referenced in paragraph 6.
  2. Paragraphs 6 to 8 deals with the relationship between housing targets in the EEP and JCS, noting that the latter slightly exceeds regional requirements. It is worth noting here that EEP housing targets are expressed as minima.
  3. Paragraph 26 specifically addresses the conformity of the JCS with the EEP with regard to Gypsies, travellers and travelling show people.
  4. Paragraph 27 specifies that “As in the case of housing, the JCS takes on board the employment target included in the EEP”. The Inspectors note that the target “is given the same status as the employment figures in the EEP”.
  5. Paragraph 29 finds that the strategic employment locations identified in the JCS mainly reflect those in the EEP.
  6. The context provided by EEP transport policy is referenced in paragraph 44 in the introduction to the discussion of the Norwich Area Transportation Strategy.
  7. The hierarchy of centres is considered in paragraph 100 and is concluded to provide a sound framework broadly reflecting the overall spatial strategy of the EEP.
23. The Inspectors Report includes in Appendix C a series of minor changes. In the Conclusion to their main report (paragraph 125) the Inspectors state that “For the avoidance of doubt, we endorse GNDP’s proposed minor changes, as set out in Appendix C”. Minor Change MC73 (Table 2 page 15 of Appendix C to the Inspectors’ Report) deletes paragraph 2.8 of the submitted JCS and replaces it with the following text:

The JCS has to comply with national planning policies and demonstrate how required growth can be delivered. At the time of its Adoption the JCS is required to be in conformity with the East of England Plan (EEP). Under proposed legislation the EEP would be revoked. However, the JCS is supported by a significant evidence base that demonstrates that it remained valid and its policies do not rely on the East of England Plan. Prior to adoption references to the East of England Plan have been simplified

The justification for this change is:

At the time of its Adoption the JCS is required to be in conformity with the East of England Plan (EEP). Under proposed legislation the EEP would be revoked.

This justification with its clear reference to conformity is subsequently repeated on several occasions in the Table. (Extract from Appendix C of the Inspectors’ Report included as PJM 4).

24. I see that the Claimant seeks “the quashing of the JCS to the extent that it is necessary to do so in order to reconsider growth”. The Claimant is opposed to the level of growth required by the RSS. Paragraph 7 of Stephen Heard’s witness statement expresses his group’s concern that the “starting point” for consultation was the regional housing targets already assigned to the Greater Norwich area, and is arguing in effect that this should not have been the starting point. The SNUB website frontpage (a copy of which is attached here as exhibit PJM 5 – screenshot taken on 22 July 2011) includes reference to this claim and includes the statement :

Read details of the claim [here](#). Stephen Heard, chair of SNUB said " We would now expect the new Council following the district elections on the 5th May to take this opportunity to withdraw the current JCS in order for them to start again with a viable and accurate forecast of housing need in the area. Once that housing need, as opposed to housing want, is determined and independently verified by experts we would expect to see a reduction in the number of houses required over the next 15 years.

25. This misunderstands the role of the JCS. Meeting growth expressed as housing provision and economic targets is considered to be a key determinant of general conformity. Policy H1 of the East of England Plan clearly sets housing growth targets as minima (exhibit REB 7). The submitted JCS demonstrated how the growth targets of the East of England Plan can be delivered. The Evidence Base submitted for the examination also demonstrated why these growth targets remain appropriate in the absence of the East of England Plan (as discussed in the Inspectors Report Issue 1 and Issue 4). The JCS has been found sound and the Inspectors drew particular attention to the issue of growth and concluded that:

The authorities have seized the initiative, risen to the challenges presented by the demographic forecasts for the area, and made a proactive response which recognises the scale of the issues. The JCS sets out a sound long-term strategy for this growth and the GNDP position on this issue is worthy of support.

26. The facts as stated in this Witness Statement are true to the best of my knowledge information and belief.

**Signed:**.....

**PHILIP JOHN MORRIS**

**Date:**.....