

County Councillor Andrew Boswell,
Green Party Group Chairman, Norfolk County Council

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8th November 2010

FAO: Inspector Roy Foster

c/o, Louise St John Howe,
Claypit Hall,
Foxearth,
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Suffolk CO10 7JD.

Dear Inspector,

Submitted Joint Core Strategy – lack of legitimacy

Thank you for your reply of 2nd November to my Green Party colleagues' letter of 1st November in which you advise that the examination hearings should proceed unless the constituent authorities of GNDP decide otherwise.

I now wish to bring to your attention that the timetable prescribed in the Foreword of Statement on Focussed Changes (FC, July 2010) has not actually been complied with. Norfolk County Council has simply not followed the timetable, and therefore has not agreed the submission of Focussed Changes through a democratically accountable process. This is an urgent matter that pertains to the legitimacy of the examination proceeding.

Further, the Scrutiny processes that maintain democratic accountability in local authorities have been by-passed by the way the GNDP has been established, and very specifically undermined, in this case, by the failure of Norfolk County Council to comply with the prescribed timetable in FC.

Norfolk County Council have not complied with the Focussed Changes timetable

Following the GNDP Policy Group meeting on 23 September, the FC Foreword states unambiguously that the Full Councils of the 3 Districts Councils and the Cabinet of the County Council were to approve any decisions from the September 23rd meeting before proceeding to Examination in Public. The September 23rd meeting recommended to the constituent local authorities approving various Focussed Changes, and a review of the JCS following the EiP.

Despite the September 23rd meeting having the status of making recommendations to the local authorities, no report was formally presented to Norfolk County Council or the Cabinet for their consideration on 11th October 2010. This is, therefore, contrary to the Statement on Focused Changes (July 2010) advising that public consultation responses would be considered by the GNDP Policy Group **and the**

individual local planning authorities in the autumn before making a final decision to submit the changes to the Planning Inspector. **In terms of the democratic audit trail, Norfolk County Council have not approved submission of Focussed Changes or the review of the JCS following the EIP.**

Further, my understanding is that representations on proposals for a development plan document must be considered by the local planning authority before submission to the Secretary of State (TCP Local Development (England) Regulations 2004 as Amended S27 (3)), so the legitimacy of the Submitted JCS is in doubt. I provide further detail appended to this letter.

The Scrutiny processes of individual councils have been by-passed

I have already raised the problem, in the Green Party EIP statement on Matter 1A, that the GNDP frequently acts without adequate reference to elected members. I wish to raise here a further general issue with democratic accountability of the GNDP of which the above is a specific example. PPS12 (4.18) recommends that single plans are produced by local authorities working in a 'formally constituted joint committee' or by concurrent adoption. The joint committee formally constituted within a Council constitution would then be open to all the usual scrutiny processes used by that Council. This would be the usual 'route' to ensure the inclusion of all local politicians in the process.

Because the Policy Group of the GNDP operates, not as part of a local authority, but as part of its own organisation, **it has not been not accessible to the scrutiny committees and processes that operate in its participating local authorities.** Consequently, its decisions have never been scrutinised, nor open to scrutiny. Scrutiny is essential for democratic accountability, and this factor is a key factor relating to my submission statements R1.7.1 and R1.7.2 on Matter 1A.

However, the specific case above goes beyond this. The Cabinet Scrutiny committee of Norfolk County Council is constituted to 'call-in' decisions made by the Cabinet. If the Focussed Changes and recommendation from the September 23rd meeting had been presented and agreed at the October 11th Cabinet, as prescribed in FC, then the Cabinet Scrutiny Committee would have had the opportunity to call-in and examine the recommendations. Any 3 of 84 councillors can call-in an item. Thus, by not discussing the recommendations from the September 23rd meeting at the October 11th Norfolk Cabinet, 84 members of Norfolk County Council have been denied democratic involvement, not just the 8 Cabinet members.

NNTAG in their letter of 6th June 2010 (EiP41) to you described how in 2006 the participating local authorities decided against setting up a Joint Committee with decision making powers under section 29 of the Planning and Compulsory Purchase Act 2004. Instead, they elected Cabinet members appointed to GNDP to refer decisions to their respective local authorities for endorsement. NNTAG describe how this informal arrangement slows down decision making. Here, I raise the more serious matter that the effect has been the systemic by-pass and undermining of the Scrutiny processes of the participating Councils.

Councils were not consulted in response to Inspector's letter of October 13th

On 13 October you wrote to the GNDP enquiring whether it wished to continue with the process of the hearings in the light of the GNDP minutes agreeing to an early review of the JCS. You enquired whether the review undertaking raised questions about soundness and the GNDP commitment to the JCS. In its response the following day, the GNDP stated,

"You can rest assured that if the GNDP authorities had wished to withdraw the JCS they would have done. We consider that the JCS is and remains, fundamentally sound and the submission of focused changes confirms the authorities' commitment to the process. You will be aware that the partnership approach for the planning of the area requires the support of all three district councils and the County Council at each stage".

However, as described above, the important issues surrounding the idea of a review had not been referred to, let alone discussed and endorsed by Norfolk County Council and Norwich City members. **By not submitting the matter to the October 11th Norfolk Cabinet meeting, all councillors were excluded from any opportunity to raise concerns.**

In an email dated 20 October, Cllr Phil Hardy, Leader of the Green Group on Norfolk County Council asked the Director of Environment, Transport and Development whether the GNDP had consulted the constituent local councils before responding to the Inspector on 14 October. The Director replied on 21 October:

"The letter was cleared by Phil Kirby as the lead Director on the JCS. The letter is a factual explanation of the decision taken at the Policy Forum on 23 September, which Daniel Cox chaired".

There is a question of legitimacy over the letter being cleared in this way without reference to the participating local authorities. The GNDP is not the decision making body, and it does not have the authority to make such a decision without referring the matter to constituent local authorities.

I request that you give urgent consideration to these matters. The divergence from the agreed democratic process, published in FC Foreword, is a matter of extreme concern. The long term exclusion of a majority of local politicians (as described in my Matter 1A submission), including the undermining of democratic scrutiny processes described above, and the specific by-passing of Scrutiny by not even bringing the matter to Cabinet, in the case above, are clearly matters that raise very significant question marks of the legitimacy of the JCS. There are serious questions too about the legitimacy of an officer responding to your letter to October 13th on behalf of, but without reference to, the participating local authorities.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Andrew Boswell'.

Cllr Andrew Boswell
Chair of Green Group on Norfolk County Council

APPENDIX:

Further information on the democratic processes around the Submitted JCS post September 23rd meeting

Norfolk County Council's Forward Plan of Key Decisions (1 Oct 2010 to 30 Sept 2011) also listed the issue as going to Cabinet on 11 October ("Consideration of Recommendations from GNDP Policy Group"), but, as described above, the item was not tabled on the agenda (see <http://tinyurl.com/cab110110ag>), nor referred to in the minutes (see <http://tinyurl.com/cab110110mins>). I have examined the papers for other County Council committee meetings held in September/October and cannot find any reference to the subject.

Also, the important GNDP Policy Group decision to undertake an early review of the JCS was not conveyed to Norfolk County Council, nor for that matter to Norwich City Council in its report to their Full Council on 28 September.