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Our Ref: TWA 8/1/14

2 June 2015

Dear Sirs,

PLANNING ACT 2008 APPLICATION FOR THE PROPOSED NORFOLK COUNTY COUNCIL (NORWICH NORTHERN DISTRIBUTOR ROAD (A1067 TO A47(T))) ORDER

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to the report of the Examining Authority, comprising a panel of three members: Peter Robottom MA(Oxon) DipTP MRTPI MCMI, David Richards BSocSci DipTP MRTPI and Austin Smyth PhD BA(Hons) FCILT, who conducted an examination into the application made by Norfolk County Council (“the applicant”) on 6 January 2014 for the Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”).

2. The examination of the application began on 2 June 2014 and was completed on 2 December 2014. The examination was conducted on the basis of written evidence submitted to the Examining Authority and by hearings held in Norwich, Thorpe St Andrew and Drayton between 22 July 2014 and 28 November 2014.

3. The Order would grant development consent for a 20.4 kilometre dual carriageway all-purpose distributor road that would link the A1067 Fakenham Road near Attlebridge to the A47(T) Trunk Road at Postwick, running around the northern side of Norwich, including further upgrading of the Postwick Hub Interchange previously authorised under the Highways Act 1980. The development is referred to in this letter as “the NDR project”. The objectives of the NDR project include the reduction of traffic congestion on the existing road network; providing access to and helping the delivery of areas of growth; improving transport connectivity between the area and the national strategic road network; increasing opportunities for the provision of public transport and other sustainable forms of transport to encourage modal shift; and improving traffic related environmental conditions for residents in the northern suburbs of Norwich and outlying villages.

4. Enclosed with this letter is a copy of the Examining Authority's report. The proposed development is described in section 2 of the report. The Examining Authority's findings and conclusions are set out in sections 4 to 7 of the report, and their summary conclusions and recommendations are at section 8 of the report.

Summary of the Examining Authority's recommendations

5. The Examining Authority recommended that the Order be made, in the form set out in Appendix E to their report.

Summary of Secretary of State's decision

6. **The Secretary of State has decided under section 114 of the 2008 Act to make with modifications an Order granting development consent for the proposals in this application.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 23(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Secretary of State's consideration

7. The Secretary of State's consideration of the Examining Authority's report is set out in the following paragraphs. Where not stated in this letter, the Secretary of State can be taken to agree with the Examining Authority's conclusions as set out in the report. Unless otherwise stated, all paragraph references are to the Examining Authority's report ("ER") and references to requirements are to those in Schedule 2 to the Order, as set out in Appendix E to the ER.

Preliminary matters

8. The Secretary of State agrees with the Examining Authority that, following his direction on 9 August 2013 under section 35(1) of the 2008 Act that the NDR project be treated as development for which development consent is required, the project has to be considered under the provisions of the 2008 Act (ER 1.5-6). He is satisfied also that the applicant followed proper process in making the Order application and that no party has been prejudiced by any actual or claimed deficiencies in the pre-application consultation process (ER 1.7-9).

Legal and policy context

9. Since the examination closed, the Secretary of State designated the National Policy Statement for National Networks ("NPSNN") under section 5 of the 2008 Act on 14 January 2015. He is accordingly required now to decide this application in accordance with section 104 of the 2008 Act (decisions in cases where national policy statement has effect) rather than section 105 of the 2008 Act, which was operative at the time when the examination closed. This means that, in addition to the matters referred to at ER 3.4, he must have regard to the NPSNN as designated and must decide this application in accordance with the NPSNN unless any of the considerations described in section 104(4) to (8) of the 2008 Act apply.

10. The Secretary of State has accordingly taken into account the designated NPSNN. In doing so he has considered whether the applicant and other parties should be consulted on the implications of the changes to the December 2013 draft NPSNN for the cases which they presented to the examination. He has concluded that none of those changes are significant to his decision on this application to the extent that warrants further consultation. The Secretary of State is satisfied that the policies in the draft NPSNN on the need for development of the national road network, assessment principles and generic impacts have

been sufficiently carried forward into the designated NPSNN and were adequately addressed in the examination. He therefore considers that the Examining Authority's overall conclusions on the project's conformity with the draft NPSNN (summarised at ER 8.2-4) remain relevant in relation to the designated NPSNN. However, the Secretary of State confirms that he has taken into account those aspects of the designated NPSNN which differ materially from the December 2013 draft in considering the Examining Authority's conclusions.

11. In all other respects, the Secretary of State agrees with the Examining Authority's assessment at ER 3.8-60 of the legislation and policy that are relevant and important matters to be taken into account in deciding this application, while noting that the designated NPSNN is now the primary policy document against which the NDR project is to be assessed. He confirms that he has had regard to the legislation and policy referred to by the Examining Authority in deciding this application.

12. The Secretary of State agrees with the Examining Authority that the materiality of the changes to the project applied for during the examination is not of such degree as to constitute a new project and that the revised proposals should still be considered as part of the existing application (ER 2.18-28, 3.61-63). He is satisfied therefore that it is within the powers of section 114 of the 2008 Act for him to make the Order as recommended by the Examining Authority, including the further changes referred to at paragraphs 46 to 51 below (ER 3.64-65).

Need for the NDR project

13. The Secretary of State has considered the Examining Authority's assessment at ER 4.23-76 of the modelling and forecasting techniques used by the applicant to predict the effects of the NDR and alternatives (including the "Do Minimum" scenario), and the criticisms by some interested parties of the assumptions and methodology used by the applicant. He agrees with the Examining Authority that the suite of tools employed by the applicant are consistent with current professional practice and the Department for Transport's Web-based Transport Appraisal Guidance and that they are sufficiently robust to generate realistic estimates of highway travel demand effects attributable to the NDR project and alternatives, at least in the short to medium term (ER 4.77-78, 4.495). The Secretary of State agrees with the Examining Authority that through its projections the applicant has demonstrated the need for the NDR project, in particular because without the NDR there would be significant increases in journey times and traffic queues on the existing highway network in Norwich, including on many orbital routes which are inappropriate for the volumes of traffic that they are required to cater for (ER 4.43-48). He notes also that the development plan - the Joint Core Strategy for Broadland, Norwich and South Norfolk ("the JCS") - has clearly identified the need and requirements for the NDR in line with paragraph 1.3 of the designated NPSNN (ER 3.52-60, 8.2).

Consideration of alternatives

14. The Secretary of State has considered the Examining Authority's assessment at ER 4.79-158 of the public transport and road-based alternatives to the NDR project. He agrees in particular that an option largely reliant on an enhanced public transport scenario would be unable to achieve key traffic goals of the NDR project or adequately address some of the specified objectives of the applicant's preferred scheme (ER 4.132). More generally, the Secretary of State is satisfied that all reasonable alternatives to the NDR project have been evaluated, either before the Order application was made or during the examination, and

agrees with the Examining Authority that there is no evidence that a better performing or acceptable alternative exists in economic or operational terms (ER 4.495).

Value for money and economic appraisal

15. The Secretary of State has considered the Examining Authority's assessment at ER 4.159-213 of the applicant's value for money ("VfM") and economic appraisal of the NDR project and alternatives. He notes in particular that the NDR project with City Centre complementary measures shows a Benefit Cost Ratio ("BCR") of 4.17, which increases to 5.33 when wider economic benefits and journey time reliability benefits are added, and that this represents very high value for money under the Department's VfM criteria (ER 4.187). While sensitivity testing during the examination to assess the implications of a zero traffic growth scenario after 2017 showed a substantial reduction in the BCR for the NDR project, he notes that the project would still in that scenario be on the boundary between medium and high VfM (ER 4.191).

16. With regard to alternative options, the Secretary of State notes that, while significant errors were discovered in the VfM appraisal of the public transport option undertaken during the examination, even when the errors were corrected the appraisal of that option still demonstrated a negative BCR (ER 4.184). Conversely, he notes that, if the NDR project were combined with a package of public transport service improvements, the BCR would rise to 5.98, or 7.12 with wider economic and journey time reliability benefits added (ER 4.186).

17. The Secretary of State is satisfied overall that the VfM attributable to the scheme fully meets Department for Transport's VfM performance thresholds (ER 4.213). Taken with his conclusions on the consideration of alternatives at paragraph 14 above, he is satisfied that the requirements of paragraph 4.27 of the designated NPSNN as to the appraisal of alternatives, including viable modal alternatives, have been met.

Environmental, social and economic considerations

Good design

18. The Secretary of State is satisfied that the NDR project meets the criteria for "good design" set out in paragraphs 4.28-35 of the designated NPSNN for the reasons given by the Examining Authority at ER 4.219-225.

Effect on air quality and health

19. The Secretary of State notes that the air quality impacts of plant and traffic on sensitive receptors during the construction phase would be of no more than slight adverse significance and that the applicant would be required under requirement 18 to implement appropriate mitigation measures through the Construction Environmental Management Plan ("CEMP") (ER 4.230-234, 245). As regards operational impacts, the Secretary of State notes that although there would be some deterioration in air quality close to the new route, there would be no exceedance of relevant air quality objectives. He notes also that the number of properties experiencing beneficial effects (mostly within the Central Norwich Air Quality Management Area) would exceed those where there would be some adverse effect, resulting in the overall effect being slight beneficial for NO₂, and for PM₁₀ and PM_{2.5} (fine particulate) concentrations the changes, whether adverse or beneficial, being negligible (ER 4.235-245).

20. The Secretary of State considers that the applicant's Environmental Statement ("ES"), which was prepared in accordance with the approach set out in the draft NPSNN for the assessment of air quality impacts, is sufficient for the purposes of his decision on the application. He agrees further with the Examining Authority's conclusion at ER 4.246 that the NDR project would not have a significant adverse air quality impact or lead to a deterioration in air quality in a zone where the air quality breaches the air quality limit values. With regard to paragraph 5.13 of the designated NPSNN, he is for these reasons satisfied that the air quality impacts of the project would not affect the ability of the Eastern Zone to achieve compliance with the Ambient Air Quality Directive within the most recent timescales reported to the European Commission.

Biodiversity and the natural environment

21. The Secretary of State has considered the Examining Authority's assessment of the effect of the NDR project on biodiversity and the natural environment at ER 4.247-263. He notes that during construction the project would have significant adverse effects on the Fakenham Road Roadside Nature Reserve, important hedgerows and wildlife including bats and breeding birds, but that apart from the loss of mature hedgerows these effects would essentially be short term. In the medium to long term, he notes that the adverse effects of the project would be reduced to minor or neutral, with some beneficial effects through improved water quality (ER 4.264-266). The Secretary of State agrees with the Examining Authority that the extensive mitigation measures that would be secured through the requirements will ensure that there are no significant residual adverse effects on biodiversity. He is therefore satisfied that the project accords with relevant national and local policies including the NPSNN as now designated (ER 4.267-268).

Civil aviation interests

22. The Secretary of State agrees with the Examining Authority that the NDR project should be generally beneficial to civil aviation interests and that there are no matters relating to civil aviation that would prevent the making of the Order (ER 4.269-271).

Carbon emissions

23. The Secretary of State has considered the Examining Authority's assessment at ER 4.272-283 of the carbon impacts of the NDR project. He agrees first that the approach advocated by the Norwich Green Party during the examination that the full cost of mitigating and abating carbon impacts over 60 years should be attributed as a dis-benefit in assessing the VfM of the project is not supported by the draft NPSNN (nor is it by the designated NPSNN). He notes further that much of the predicted increase in carbon emissions is a consequence of traffic growth resulting from the JCS, which is not a matter for re-consideration in the context of this application (see ER 3.59). Rather, the Secretary of State agrees with the Examining Authority that the applicant's assessments of carbon effects as reported in the ES and as carried out during the examination provide a satisfactory basis for the determination of this application and which accord with the draft NPSNN guidance as then applying.

24. The Secretary of State acknowledges, like the Examining Authority, that the NDR project would lead to an immediate and ongoing increase in carbon emissions as compared with the "Do Minimum" scenario, although these impacts may be mitigated by measures adopted under future carbon budget rounds. However, he also agrees with the Examining

Authority that the scale of increase in emissions would not be so substantial that it would affect the ability of the Government to meet its carbon reduction targets, nor the fulfilment of the overarching national carbon reduction strategy. In the light of this conclusion and having regard to the guidance on decision making in paragraph 5.18 of the designated NPSNN, the Secretary of State is satisfied that the increase in carbon emissions attributable to the NDR project is not a reason for refusing development consent. He notes also in this context that the NDR project would support focussed development in the North East Growth Triangle which should support the development of a sustainable transport system with the potential for a shift in travel behaviour (ER 4.502).

Common law nuisance and statutory nuisance

25. The Secretary of State agrees with the Examining Authority that all the potential risks of nuisance have been properly considered and addressed in the preparation of the draft Order and in the ES, and that appropriate requirements have been included (ER 4.280-291).

Flood risk, water quality and resources, waste management and pollution

26. The Secretary of State agrees with the Examining Authority that, following assessment and mitigation, there are no outstanding perceived adverse effects in relation to these matters (ER 4.292-308, 4.500). He is satisfied that the NDR project accords with the approach to these topics in the NPSNN as now designated, including paragraph 5.97 on surface water flood issues.

Heritage

27. The Secretary of State has considered the Examining Authority's assessment of the impacts of the NDR project on heritage assets at ER 4.309-338. He notes that the applicant has sought to minimise potential impacts on heritage through the choice of route, but that some adverse impacts would remain, for example where the road would pass through the Beeston Park and Rackheath Park historic parklands, irrespective of an extensive package of heritage mitigation measures. He agrees with the Examining Authority's overall conclusion that, having regard to the objectives of the draft NPSNN (and of the NPSNN as now designated), the identified harm to individual heritage assets affected, including undesignated assets, would be less than substantial; and that for the great majority of the identified assets the significance of impact would be neutral or slight. He agrees that where moderate adverse impacts have been identified these fall to be weighed against the public benefits of the project (ER 4.339).

Land use

28. The Secretary of State agrees with the Examining Authority that the loss of the best and most versatile agricultural land is a major adverse effect of the project and that this must be weighed in the overall balance (ER 4.342). He notes, however, that there would not be a significant effect on the viability of agricultural holdings (ER 4.344-345). He is satisfied also that the minor use and full replacement of public open space is consistent with the assessment principles in paragraph 5.166 of the designated NPSNN (ER 4.351).

Landscape and visual impacts

29. The Secretary of State has considered the Examining Authority's assessment at ER 4.353-383 of the likely impacts of the NDR project on landscape character and visual

amenity. He accepts that the project will have a significant effect on and would cause some harm to the landscape character of the area through which the new road would pass, much of which is rural in character, and to views from residential properties, rights of way and transport routes. However, he notes that while much of the landscape is attractive in its own right it is not covered by any national landscape designation (ER 4.384-386, 393). The Secretary of State notes also that extensive mitigation is proposed with the aim of assimilating the new road in the landscape and screening it in views of sensitive receptors. He agrees with the Examining Authority's conclusion that in the majority of locations landscaping works will provide effective mitigation, but that where the new road would cross the railway between Plumstead/Rackheath and Thorpe End a moderate adverse effect would persist through to the design year (Year 15), which will need to be weighed in the overall balance (ER 4.394-395).

Noise and vibration

30. The Secretary of State is satisfied that the measures which would be secured through the requirements, including the CEMP, to mitigate the effects of noise and vibration during the construction of the NDR project are appropriate (ER 4.399-402). With regard to the effects of operational noise and vibration he notes that, even with the extensive mitigation proposed (including the application of a thin surface course and the provision of bunds, false cuttings and barriers) there would be significant residual adverse noise effects experienced at a considerable number of properties along the route. While he notes that there would be very few properties where increased noise would exceed relevant noise thresholds, he recognises that the perception of increased noise would be greatest where ambient noise levels are currently very low (ER 4.403-414, 4.501). The Secretary of State agrees with the Examining Authority that the adverse effects of the noise identified in the ES are matters to be weighed in the balance in considering the overall merits of the project (ER 4.418).

Safety

31. The Secretary of State notes that the proposed new road has been designed in accordance with the Design Manual for Roads and Bridges and has been subject to safety audits. He agrees with the Examining Authority that in general terms safety issues have been properly addressed in accordance with the draft NPSNN (and with the NPSNN as designated) and that highway safety would be improved (ER 4.419, 499). As regards the extent of lighting along the new road, he notes that this has satisfied safety audits and agrees with the Examining Authority that requirement 32 would provide an appropriate means of re-assessing the situation in the future should unforeseen circumstances arise (ER 4.421-423). The Secretary of State notes also that Network Rail's concerns over potential issues with level crossings have been resolved (ER 4.424-429).

Socio-economic impacts including commercial impacts

32. The Secretary of State has considered the Examining Authority's assessment of the socio-economic impacts of the project at ER 4.430-439. He notes that some interested parties were concerned that the NDR project might undermine regeneration in and close to Norwich City Centre and adversely affect businesses in outlying coastal towns, while the overwhelming majority of business interests were supportive of the NDR project and the aims of improving transport connectivity and supporting growth. The Secretary of State, however, agrees with the Examining Authority's overall conclusion that the socio-economic impacts of the NDR project should have a potentially strongly beneficial effect on economic development in the Norwich and wider North Norfolk locality, provided that appropriate

planning policies are followed to prevent out-of-centre retail development in the vicinity of the new road (ER 4.440).

Public transport benefits

33. The Secretary of State notes that, in accordance with the Department for Transport's conditions on funding for the NDR project, the applicant is committed to the implementation of a package of sustainable transport measures in the City Centre on the basis of the Norwich Area Transportation Strategy (ER 4.445). In this context, he agrees with the Examining Authority that substantial improvements to the radial public transport network in combination with the NDR project would maximise the economic and other benefits of transport improvements for the City and surrounding area, and would safeguard the competitiveness of the City Centre. He notes, however, the Examining Authority's view that the scale of improvement to public transport services that would be involved in such a scenario may not be a realistic objective under existing regulatory structures and control in the industry, and given the local financial performance in the bus market (ER 4.449).

Implications for rat-running around the western edge of Norwich and for villages west of Norwich

34. The Secretary of State has noted the concerns of some interested parties that without a link to the western A47(T) there would be increased rat-running through the villages south of the A1067. He is satisfied that the obligation under requirement 28 on the applicant to prepare a scheme of traffic calming measures should provide sufficient safeguards for the settlements south of the A1067 close to the edge of Norwich (ER 4.450-452). As for settlements on minor roads between the A1067 and the A47(T) further out from Norwich, he is similarly satisfied that requirements 26 and 27 should ensure that adverse traffic consequences do not arise in Hockering and Weston Longville or on sections of minor roads that have not been improved and designated as routes for through traffic (ER 4.453-456). As for possible impacts on the village of Lyng, the Secretary of State agrees with the Examining Authority that the provisions in requirement 29 for traffic monitoring and contingent action will provide a sufficient safeguard should there be unforeseen traffic consequences (ER 4.457-458).

Potential minor highway variations

35. The Secretary of State has considered the Examining Authority's assessment of potential minor highway variations to the NDR project canvassed during the examination as summarised at ER 4.459-472. He agrees with the Examining Authority's conclusions as to the changes which should be accepted (principally those changes at Drayton aimed at improving connectivity and safety) and the ones which should not be taken forward, for the reasons given by the Examining Authority.

Effects on non-motorised users

36. The Secretary of State has considered the Examining Authority's assessment of the effects of the NDR project on non-motorised users at ER 4.473-485. With regard to the suitability of the provision that would be made for cyclists, the Secretary of State agrees with the Examining Authority that the applicant has taken a reasonable approach to cycle-proofing the project (ER 4.480). More generally, he is satisfied that where existing footpath, bridleway and restricted byway routes would be severed, appropriate alternative provision would be made to maintain connectivity. He agrees also that as a whole the proposals

would provide an extensive new network of routes for non-motorised users which would represent an enhancement and that the predicted decline in traffic levels in urban areas would also be of benefit to non-motorised users (ER 4.486).

Cumulative effects with other development

37. The Secretary of State is satisfied that the applicant's ES has adequately assessed the likely cumulative effects of the NDR project with other development including the effects of predicted traffic growth as a result of development proposed in the JCS, as summarised at ER 4.488-492. He agrees with the Examining Authority that there is potential for significant cumulative effects during the construction phase to arise in association with other schemes in the event of these occurring at the same time, but that it is more likely that the developments would be phased over a longer period. As regards the operational phase, the Secretary of State agrees that there is no evidence that any significant cumulative effects would arise in addition to those attributable to the project itself, as it has been based on the assumption of JCS growth (ER 4.493).

Overall conclusions on planning and transport issues

38. Taking into account the foregoing conclusions, the Secretary of State has, in accordance with the general principles of the designated NPSNN and having regard to section 104(7) of the 2008 Act, weighed the potential benefits of the NDR project against its potential adverse impacts. He agrees with the Examining Authority that achieving the objectives of the project (referred to at paragraph 3 above) would provide very significant social and economic benefits which would have national, regional and local dimensions. These would include some local environmental and safety benefits where traffic is redirected from unsuitable urban or rural roads. The Secretary of State has weighed against these benefits the long term residual harm to heritage assets and to the landscape, the worsening of the overall noise climate, the loss of the best and most versatile agricultural land and the increase in carbon emissions. He agrees with the judgement of the Examining Authority that the NDR project represents the best available option to address the transport objectives sought in the social, economic and environmental context of the JCS and that the benefits of the project outweigh its adverse impacts. The Secretary of State accordingly agrees that development consent should be granted (ER 4.503-505).

Findings and conclusions on Habitats Regulations

39. The Secretary of State has considered the applicant's Habitats Regulations Assessment reports on the implications of the NDR project for potentially affected European sites, summarised at ER 5.1-14. He agrees with the Examining Authority that, taking into account the mitigation measures that have been agreed by Natural England and the Environment Agency and which would be secured by requirements 24 and 25, the project is not likely to give rise to any significant effect on the River Wensum Special Area of Conservation or any other European site, either alone or in combination with any other plan or project and that no appropriate assessment is required (ER 5.15-21, 8.5).

Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

40. The Secretary of State agrees with the Examining Authority that the environmental information provided by applicant in its ES, the Addendum to the ES and during the examination is sufficient for the purposes of assessing all likely significant effects of the NDR project (ER 4.14). He confirms for the purposes of regulation 3(2) of the Infrastructure

Planning (Environmental Impact Assessment) Regulations 2009 that, in coming to the above conclusions, he has taken into consideration all the environmental information as defined in regulation 2(1) of those Regulations. For the purposes of regulation 23(2)(d)(iii), the Secretary of State considers that the main measures to avoid, reduce and, if possible, offset the major adverse environmental impacts of development are those specified in the requirements.

Compulsory acquisition and other land matters

41. The Secretary of State has considered the compulsory acquisition powers sought by the applicant against the tests concerning compulsory acquisition in sections 122, 123 and 132 of the 2008 Act, relevant guidance and the Human Rights Act 1998. In this context, he has considered the Examining Authority's assessment of the case for compulsory acquisition or temporary use of the specific plots of land that were subject to representations, as set out at ER 6.37-223.

42. With regard to the Examining Authority's overall conclusions, the Secretary of State agrees that the land and rights being sought for the NDR project as a whole, and the individual plots detailed in the revised land plans and book of reference, are required for the purposes of the NDR project (ER 6.286). He is satisfied that there are no reasonable alternatives that would meet the totality of the objectives sought for the NDR project (ER 6.246-255, 287); and that the requirements of the Human Rights Act have been met (ER 6.258-269). The Secretary of State agrees further with the Examining Authority that there is a compelling case in the public interest for conferring on the applicant the compulsory acquisition powers sought, given that the NDR project would wholly or substantially meet the objectives referred to at paragraph 3 above, which are firmly based in the need established by the JCS and consistent with the designated NPSNN (ER 6.34-36, 245, 256, 288). As regards funding for the project, the Secretary of State agrees with the Examining Authority that there is reasonable certainty that funding is available for the NDR project itself within the proposed timescale for its implementation (ER 4.214-218, 6.270-285, 287).

43. The Secretary of State is satisfied that, with regard to the interests of statutory undertakers, no issues remain in respect of sections 127 and 138 of the 2008 Act (ER 6.224-226, 290-291). As for the public open space (part of the Marriott's Way) and fuel allotments (at Plumstead) which would be affected by the NDR project, he agrees with the Examining Authority that the requirements of section 132 of the 2008 Act have been met and confirms that the Order will not be subject to special parliamentary procedure (ER 6.293, 296). He agrees also that the temporary possession powers in the Order are appropriate (ER 6.257, 297).

44. With regard to the land in the vicinity of the A47(T) Postwick Junction referred to at ER 6.7, the Secretary of State notes that since 1 April 2015 trunk road land is held by Highways England and is no longer Crown land for the purposes of section 135 of the 2008 Act. However, the Secretary of State's residual interest in the former railway land comprised in Marriott's Way referred to at ER 6.8 remains Crown land. By way of letter dated 18 March 2015, the then Highways Agency on behalf of the Secretary of State gave express consent under section 135(1) and (2) for the compulsory acquisition of interests other than the Crown's in that land, and for the application to that land of other relevant provisions in the Order.

The Development Consent Order

45. The Secretary of State has considered the Examining Authority's assessment of the Order and the description of its evolution during the course of the examination in section 7 of the ER. He is satisfied that, subject to the qualifications set out in the following paragraphs, the Order set out at Appendix E to the ER is acceptable. (References to article numbers in the following paragraphs are to articles as numbered in Appendix E.)

46. In article 11 (classification of roads), paragraphs (5) and (6) have been modified to ensure that where the classification of a road is to change, the new classification comes into effect as soon as the old classification is removed, since it would not be appropriate to have a period of 24 hours when the road is unclassified.

47. In order to remove inconsistencies and duplication in the provisions that relate to the extinguishment of rights over land, article 20(2) (compulsory acquisition of land), article 22 (power to override easements and other rights), and article 24(4), (7) and (8) (compulsory acquisition of rights) have been deleted. Article 25(9) (private rights) has been modified to extend the application of that article to the types of easement and other rights referred to in the now deleted article 22.

48. In paragraph (1) of article 36 (felling or lopping of trees), the power to enter land to carry out felling or lopping of trees or shrubs has been deleted, along with the associated notice requirement in paragraph (2). The Secretary of State considers that the applicant has not demonstrated that it is necessary for the purposes of the NDR project to enter land beyond the DCO Boundary shown on the Order plans for these purposes, nor included sufficient safeguards for the protection of those who would have been affected by the proposed power of entry.

49. Article 46(1) (procedure in relation to certain approvals etc.) has been amended to make clear that the procedures do not apply to the protective provisions in Parts 1 and 2 of Schedule 13 for the benefit of Network Rail and National Grid respectively.

50. Article 47 (arbitration) has been amended to provide that, if the parties to a dispute under the Order cannot agree an arbitrator, the responsibility for selecting an arbitrator should fall to the President of the Institution of Civil Engineers rather than the Secretary of State, in line with the standard provisions of this sort in Orders made under the 2008 Act.

51. The Secretary of State has made a number of other minor textual amendments to the Order set out in Appendix E to the ER in the interests of clarity, consistency and precision; to conform with the current practice for drafting Statutory Instruments; and to take account of Highways England taking over functions of the former Highways Agency. He considers that none of these changes, either individually or taken together, materially alter the effect of the Order.

Other consents required

52. With regard to other consents that will be required to implement the NDR project, the Secretary of State notes that Natural England has issued "letters of no impediment" in response to the draft mitigation licences for bats and great crested newts submitted by the applicant (ER 4.254, 256). In relation to other outstanding consents, he agrees with the Examining Authority that there are unlikely to be any issues that would prevent implementation of the Order (ER 8.13).

Representations since examination

53. The Secretary of State has received eight representations since the examination closed. In relation to seven of those representations, he does not consider that anything in the correspondence constitutes new evidence, or raises a new issue, which needs to be referred to interested parties before he proceeds to a decision. They do not cause him to take a different view on the matters before him than he would otherwise have taken based on the Examination Authority's report.

54. In a letter to the Secretary of State dated 27 May 2015, the Norwich and Norfolk Transport Action Group ("NNTAG") drew attention to new information which NNTAG considered altered the economic and financial case for the NDR project, calling into question the need for the project and the viability of the local funding mechanism presented by the applicant to the examination. The new information was a report dated 13 March 2015 to the Local Plan Working Group of Breckland Council which refers to the interim findings of the Strategic Housing Market Assessment ("SHMA") undertaken by the Greater Norwich Development Partnership. NNTAG says that this shows a demand for 3,000 fewer dwellings in the JCS area in the next 10 years than was previously anticipated.

55. The Secretary of State does not consider that in deciding this application great weight should be attached to the reported emerging findings of the SHMA compared with the development plan (the JCS), adopted as recently as January 2014, which has clearly identified the need for the NDR. He considers that it will be a matter for the relevant planning authorities to consider whether the JCR needs to be reviewed when the SHMA is in due course finalised. The Secretary of State is satisfied that the information referred to by NNTAG does not undermine his conclusions on the need for the project at paragraph 13 above.

56. As regards the funding mechanism for the NDR project, the Secretary of State notes that the possibility of shortfalls in the Community Infrastructure Levy receipts (which NNTAG have contended is indicated by the interim findings of the SHMA) was raised at the examination (see ER 6.275). The Examining Authority was satisfied on the evidence provided that the applicant was fully committed to underwriting its share of the cost of the project (£60.34 million), with borrowing approval available for the whole of this sum should it be required. The Secretary of State accepts this finding and is therefore satisfied that the effect of a 10% reduction in the demand for new homes in the Norwich Policy Area (see ER 3.54) – if that were the eventual finding of the SHMA – does not alter his conclusion, at paragraph 42 above, that there is reasonable certainty as to the availability of funding for the NDR project.

Secretary of State's conclusions and decision

57. For all the reasons given in this letter, the Secretary of State considers that there is a compelling case in the public interest for authorising the NDR project. He has accordingly decided to accept the Examining Authority's recommendation at ER 8.14 and is today making the Order as recommended by the Examining Authority, but subject to the modifications referred to at paragraphs 46 to 51 above. The Secretary of State confirms that in reaching this decision he has had regard to all the matters specified in section 104(2) of the 2008 Act. He is satisfied that none of the considerations in section 104(4) to (8) of the 2008 Act apply and that the NDR project accords with the principles in the designated NPSNN.

Challenge to decision

58. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

59. The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours faithfully,

Martin Woods

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court before the end of the period of 6 weeks beginning with the day after the day when the Order is published. The Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order (as made) is being published on the Planning Inspectorate website at the following address:

<http://infrastructure.planningportal.gov.uk/projects/eastern/norwich-northern-distributor-road-ndr>.

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).