
The Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order

Addendum to Statement of Common Ground between Norfolk County Council and Lothbury Property Trust Company Ltd

Planning Act 2008

Infrastructure Planning

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

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**Statement of Common Ground prepared by Norfolk
County Council and Property Trust Company Ltd**

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NORWICH NORTHERN DISTRIBUTOR ROAD

The Norfolk County Council (Norwich Northern
Distributor Road (A1067 to A47(T))) Order

Planning Inspectorate Scheme Reference TA010015

STATEMENT OF COMMON GROUND

Between

Norfolk County Council

and

Lothbury Property Trust Company Ltd

Version	Date	Status of Version
Rev 2	16/07/14	Final

1.0	Introduction
1.1	Norfolk County Council is applying to the Secretary of State for an Order to construct the Norwich Northern Distributor Road ("NDR") pursuant to section 37 of the Planning Act 2008 ("the Act").
1.2	<p>The main aspects of the NDR project are:</p> <ul style="list-style-type: none"> • The construction of a 20.4km primarily dual carriageway road from the A1067 Fakenham Road near Attlebridge to the A47 Trunk Road at Postwick. • Construction of new roundabout junctions with the A1067 Fakenham Road, C262 Fir Covert Road, C261 Reephams Road, C282 Drayton Lane, B1149 Holt Road, B1150 North Walsham Road, A1151 Wroxham Road, C283 Salhouse Road, C874 Plumstead Road and the Broadland Gate Development Link Road together with a new roundabout junction on the NDR north of Norwich Airport. • Construction of a grade separated junction with the A140 Cromer Road – i.e. involving a new bridge on the A140 Cromer Road linking roundabouts either side of the NDR and slip roads onto/off the NDR. • Construction of the NDR junction with the A47 at Postwick, including new slip roads and grade separated crossing over the A47. • Construction of new bridges over the NDR at the Marriotts Way Permissive Path, Bell Farm Track (Horsford Restricted Byway No 5), C246 Buxton Road, Newman Road (private means of access) and C442 Middle Road. • Construction of bridges carrying the NDR over the Norwich to Sheringham railway line and C874 Plumstead Road. • Construction of new culverts across the NDR including a combined culvert/bat tunnel beneath the NDR near Rackheath. • Construction of new highways linking the NDR with the existing highway network. • Provision of new drainage works in connection with the above highway works. • Stopping up of private means of access and the creation of new private means of access to premises and farm land in the vicinity of the route. • Stopping up/diversion of existing footpaths, bridleways and restricted byways and the provision of new bridleways, cycleways and cycle tracks. • The compulsory acquisition of land and rights: • Improvements to the existing highway at the B1150 North Walsham Road/C249 Crostwick Lane/C249 Rackheath Lane junction, the A1151 Wroxham Road/C258 Green Lane West junction and the C874 Plumstead Road through Thorpe End. • The alteration, diversion and stopping up of lengths of existing highway and the making or amendment of Traffic Regulation Orders. • Such ancillary, incidental, and consequential provisions permits or consents as are necessary or convenient.
1.3	This statement of common ground ("SOCG") has been prepared in connection with the NDR project between Norfolk County Council and Lothbury Property Trust Company Ltd
1.4	Guidance about the purpose and content of SOCG's is given in paragraphs 57-

	<p>62 of the "Planning Act 2008: examination of applications for development consent" document published by the Department for Communities and Local Government on 26 April 2013. Paragraph 57 provides:</p> <p><i>A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it may also be useful for a statement to identify areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence.</i></p>
1.5	<p>SOCG's are therefore a useful means of ensuring that the evidence at the post application examination focuses on the material differences between the parties, thus leading to a more efficient examination process.</p>
2.0	The Role of Lothbury Property Trust Company Ltd
2.1	<p>The role of Lothbury Property Trust Company Ltd "Lothbury" in the context of the project is as a statutory consultee.</p>
2.2	<p>Peter Wilkinson on behalf of Lothbury made relevant representations and a written representation. Section 3 below summarises the issues raised in written representation and sets out Norfolk County Council's response; and notes where agreement has been reached between the parties or where the matter remains outstanding.</p>
3.0	Issues Raised, Response and Agreement/Disagreement
3.1	<p>Topic: The acquisition of land by Norfolk County Council for the NDR as marked on Plan 1 (appended to the Written Representation) will thwart the construction of the necessary link road so that the consented and necessary Lothbury Development will be prevented.</p> <p>Norfolk County Council's Response Should the Development Consent Order (DCO) be confirmed by the Secretary of State the Applicant would only exercise its powers to compulsorily acquire the land once it is in a position to proceed with construction of the NDR scheme. The Applicant has provided a undertaking in writing to Lothbury that if the proposed development roundabout on Middle Road has not been constructed at the time the Applicant acquires the land included in the DCO the Applicant will allow Lothbury at no charge, in relation to the use of this land, to construct a roundabout on Middle Road as part of the proposed development. This would be subject to all the usual technical approvals and agreements.</p> <p>In the scenario where both schemes are programmed to be constructed at the same time NCC as the Highway Authority would enter into the necessary agreements as soon as is reasonably practicable to enable the prompt and safe construction of the Lothbury works and their subsequent adoption. The details of these agreements would have to be finalised at the time.</p>

	<p>Agreement Lothbury and NCC are in agreement on this topic.</p>
<p>3.2</p>	<p>Topic: The Norfolk County Council's (NCC) NDR proposals for Middle Road, which includes raising the levels of Middle Road eastwards towards a new bridge over the NDR, did not originally recognise the proposed Lothbury Link Road and roundabout junction on Middle Road included in outline planning consent 20090886.</p> <p>The improved Middle Road would be designed to current highway design standards (Design Manual for Roads and Bridges) and will replace the existing sub-standard public road over the railway which will require the raising of the levels of Middle Road on the approaches to the bridge. The development of the NDR at the point at which a roundabout is necessary for the link road's connection with Middle Road will impose extra unnecessary and unforeseen costs on the Lothbury Development. This is principally because the construction of accommodation works for Middle Road to cross the NDR by the County Council will raise the land to which the roundabout to the Link Road will have to be built to tie into the NDR. This in turn will raise the costs for the consented Lothbury Development (para. 2.3 of the Written Representation), as substantial earthworks will be required for the roundabout junction of the Link Road with Middle Road (see Plan 1).</p> <p>Norfolk County Council's Response</p> <p>The Applicant understands that the link road from Plumstead Road East to Peachman Way is agreed in principal only and the outline permission still requires reserved matters applications.</p> <p>Discussions have been held between representatives of Lothbury and representatives from the Applicant to discuss how the two schemes may proceed. These discussions, which are on-going, include the exchange of outline highway designs indicates that the Lothbury development and the NDR could co-exist.</p> <p>The horizontal design for the roundabout would be similar for both a Lothbury optimum solution without an NDR and the scenarios which accommodated the NDR. The actual extents of any adjustment of levels required to the design of the roundabout for both the Lothbury and NCC proposals can only be fully determined during detail design of the link road.</p> <p>Different scenarios have been identified which were found to be dependent on which scheme proceeds first or both schemes at the same time:</p> <ol style="list-style-type: none"> 1. Link Road built first, NDR built second. The Lothbury consented development improvement for Middle Road and roundabout would be constructed before the NDR. This proposal requires the roundabout to be constructed with a rise in levels across it, east to west, as the levels of Middle Road are raised for the approach to the new railway

	<p>bridge. When the NDR is constructed the eastern half of the roundabout will then require reconstruction to raise the eastern side of the roundabout by about 0.5m to tie the roundabout into the NDR proposal for Middle Road.</p> <p>2. NDR built first, Link Road second. The NDR Middle Road would be constructed by NCC before the Lothbury Link Road. When the Lothbury Link Road is constructed the levels of the eastern side of the roundabout would be constructed about 1.0m above the original levels that the roundabout would have been initially constructed at prior to the NDR in Scenario 1 above. The Western end of Middle Road, having been previously constructed under the NDR, would then require raising and reconstruction for the new approach to the replacement railway bridge.</p> <p>3. Link Road and NDR built at same time. In this scenario the Lothbury Link Road roundabout and NDR are constructed at the same time which would avoid the reconstruction of a section of recently constructed Middle Road in Scenarios 1 and 2 above. There may be cost savings to both parties if both projects are constructed as one project.</p> <p>The matter of cost is addressed in section 3.3 below.</p> <p>Agreement Lothbury and NCC are in agreement on this topic</p>
3.3	<p>Topic: The written representation at paragraphs 5.3.1 and 5.3.2 state that further agreement is needed on the following matters:</p> <ul style="list-style-type: none">• That Lothbury can secure detailed consent for the design of the link road junction with Middle Road without having to bear the extra costs of incorporating the preferred design solution of the County Council for the over bridge at Middle Road to the NDR;• That once Lothbury has secured detailed consent for the link road in the vicinity of Middle Road it can proceed immediately and not be delayed by awaiting the construction of the NDR. <p>Until a final agreement has been reached and all the design work has been concluded, Lothbury considers that it must remain a objector to the proposed NDR and the linked compulsory purchase as it affects Middle Road to the east of the Lothbury Development.</p> <p>It is hoped that by 21 July, when Statements of Common Ground are due to be submitted, further significant progress will have been made in negotiations. The intention is that NCC will have reviewed the design solutions for the link road at its intersection with Middle Road and it is hoped that NCC will agree a design solution for the Middle Road over bridge accommodation works for the NDR in a way which does not compromise either the design, cost, timing or</p>

ability to deliver the link road.

If this is the case Lothbury would be prepared to withdraw its objections to the proposed NDR and the linked compulsory purchase as it affects Middle Road to the east of the Lothbury Development.

Norfolk County Council's Response

Response to first bullet point:

It is the Applicant's view that the implications on the vertical design in cost terms between the Lothbury optimum solution and a scenario which accommodated the NDR would not be significant.

The detailed cost implications, if any, would require a fully worked up detailed design for the Lothbury Link Road which is not available at this stage.

The holder of an option to purchase land to be acquired under the DCO may be entitled to claim compensation, as would a directly affected landowner.

Compensation would be assessed on the reduction of the market value of Lothbury's interest in the land rather than being based, for example, on the difference in cost of the various roundabout designs. In valuation terms, cost does not necessarily equal value.

The Applicant does not believe that meaningful compensation negotiations can be progressed at this time. In the Applicant's opinion the more appropriate time would be when detailed design has been completed, all necessary consents obtained, land interest (landowner or option holder) are crystallised and works are about to start.

Response to second bullet point:

The Applicant understands that the link road from Plumstead Road East to Peachman Way is agreed in principle only and the outline permission still requires reserved matters applications. At the time of writing a reserved matter planning application for the link road has not been submitted to or approved by the Local Planning Authority.

Whilst Lothbury's highway consultants have had discussions with NCC Development Control, as the Highway Authority, on the initial outline design of the Lothbury proposal for the link road, construction of the Link Road and Roundabout by Lothbury will require an Agreement between Lothbury and NCC under section 38 of the Highways Act 1980 for the adoption of new road as public highway and also under 278 for alterations to existing public highway

A Works Agreement with Network Rail would also be required for the bridge over the Norwich - Sheringham railway line.

The Applicant's view is that a start on site in January 2015 for the link road as suggested in the written representations is optimistic given the above processes that still need to be concluded. Once on site it is the Applicant's view that it would be necessary for Lothbury to construct the bridge over the railway before the Link Road would be open for use. The timetable for the construction of the bridge and the programme for completion of the link road are currently not known. A construction programme of 12 months is however not considered to be unreasonable by the Applicant. Should the Development Consent Order (DCO) be confirmed by the Secretary of State during 2015 and the Lothbury development is underway on site it is the Applicant's view that it would be possible to coordinate both works to minimise abortive costs for either parties. The Applicant would be willing to consider joint working with Lothbury to achieve this outcome.

Agreement/Disagreement

Both parties are in agreement with the above. The areas of disagreement are limited to the points listed below:

In relation to bullet point one above, Lothbury cannot be sure that the difference in costs between the Lothbury optimum solution and a scenario which accommodated the NDR would be insignificant.

The current programme of Lothbury is to have the contract to undertake let and work commence in January 2015. Even if this timetable slips due to delays in obtaining the necessary consents from the appropriate authorities, including NCC, the commencement is likely to be in advance of the NDR. In this scenario Lothbury need a written guarantee that the construction of the Link Road will not be delayed by the Applicant, awaiting the construction of the NDR.

Both parties will continue to work together to attempt to resolve these matters with a view to updating this Statement of Common Ground by 4 August 2014.

This statement of common ground has been prepared jointly and agreed by:

Signed:



Date: 18/07/2014

On behalf of Norfolk County Council

Signed:



Date: 18/07/2014

On behalf of Lothbury Property Trust Company Ltd

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**Email from Norfolk County Council to Peter Wilkinson of
Landmark Planning Ltd dated 29 July 2014**

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From: Kemp, Mark
Sent: 29 July 2014 08:46
To: Peter Wilkinson
Subject: NDR - Lothbury SOCG

Peter

Thank you for your assistance in securing the Statement of Common Ground (SOCG) between the County Council and Lothbury.

Whilst both parties disagree on the first bullet point in the SOCG, I would hope that both parties could jointly agree that this does not need to be resolved for the purposes of the Development Consent Order (DCO) as this relates to a compensation matter and not the merits or otherwise of the DCO.

The County Council very much wants to work with Lothbury in securing a design and construction solution for your proposed Middle Road roundabout that is acceptable to both parties. However without detailed plans having been submitted for your link road, and without firm timings for both the NDR construction and your link road construction, it is premature to seek to tie things up in a legal agreement. However I can say that the County Council will:

- Continue to liaise with you on the progress of the NDR project and on the detailed design for the works to raise the level of Middle Road on the approach to the bridge over the NDR;
- Continue to liaise with you on the progress of your link road;
- Work in a spirit of co-operation with Lothbury;
- Use its reasonable endeavours to co-ordinate the construction of the NDR Middle Road works and the construction of the Lothbury new roundabout to minimise cost and inconvenience to both parties;
- Use its reasonable endeavour to secure that detailed heads of terms are agreed in due course and translated into a legal agreement between the parties.

Likewise, the County Council would wish to see a commitment from Lothbury in similar terms in relation to its proposed link road and roundabout works.

I would hope that the above could be reflected in a jointly agreed addendum to the SOCG to confirm that there are no outstanding issues between the County Council and Lothbury.

I would appreciate your thoughts. It would be good if we could resolve this prior to the 4 August deadline.

Regards
Mark

Mark Kemp CEng MICE
Project Team Manager
Highways and Transport
Environment, Transport and Development
Norfolk County Council

Norfolk County Council

General enquiries: 0344 800 8020 or information@norfolk.gov.uk

www.norfolk.gov.uk

**Letter from Peter Wilkinson of Landmark Planning to
Norfolk County Council dated 31 July 2014**

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Mr. M. Kemp,
Project Team Manager
Environment, Transport and Development,
Norfolk County Council,
County Hall,
Martineau Lane,
Norwich,
NR1 2SG



L a n d m a r k
P L A N N I N G

Our Ref: 14027
PI Ref TA010015

Date: 31st July 2014

Dear Mark

**NORWICH NORTHERN DISTRIBUTOR ROAD:
STATEMENT OF COMMON GROUND Between Norfolk County Council &
Lothbury Property Trust Company Ltd**

I refer to the above Statement of Common Ground dated 18th July 2014, your subsequent email dated 29th July 2014 and our collective wish to secure further progress.

I can now confirm the following which I believe accords with your view of the matter. I am happy for you to submit this to the Planning Inspectorate as a further Statement of Common Ground (SOCG) dated 31st July. This document set out two areas of disagreement in para.3.3.

In terms of the first bullet point:

- That Lothbury can secure detailed consent for the design of the link road junction with Middle Road without having to bear the extra costs of incorporating the preferred design solution of the County Council for the over bridge at Middle Road to the NDR;

Whilst both parties disagree, we jointly agree that this does not need to be resolved for the purposes of the Development Consent Order (DCO) as this relates to a compensation matter and not the merits or otherwise of the DCO.

It is accepted that the County Council very much wants to work with Lothbury in securing a design and construction solution for our proposed Middle Road roundabout that is acceptable to both parties. However without detailed plans having being submitted for the link road, and without firm timings for both the NDR construction and the link road construction, it is premature to seek to tie things up in a legal agreement. However I understand that the County Council will:

- Continue to liaise with Lothbury on the progress of the NDR project and on the detailed design for the works to raise the level of Middle Road on the approach to the bridge over the NDR;
- Continue to liaise with you on the progress of your link road;
- Work in a spirit of co-operation with Lothbury;
- Use its reasonable endeavours to co-ordinate the construction of the NDR Middle Road works and the construction of the Lothbury new roundabout to minimise cost and inconvenience to both parties;
- Use its reasonable endeavour to secure that detailed heads of terms are agreed in due course and translated into a legal agreement between the parties.

It is very much the intention of Lothbury to work in the same manner in relation to the proposed roundabout and Link Road works.

Provided the recorded agreement is carried out, there are no matters of principle outstanding between Lothbury and NCC.

It may further be useful to explain that since the SOCG was submitted Lothbury have made further progress on their works by now commissioning all the necessary works from ground investigations to archaeology to be able to submit for detailed planning consent by the end of September. In the interim negotiations will have commenced with Network Rail with a view to concluding them before the end of the year. The programme sets out that the job should be formally tendered to contractors at the very beginning of the new year.

Your Sincerely

A large black rectangular redaction box covering the signature area.

Peter Wilkinson
Managing Director