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

Applicant's comment on Written Representations by Campaign to Protect Rural England

Planning Act 2008

Infrastructure Planning

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

PINS Reference Number: TR010015

Document Reference: NCC/EX/35

Author: Norfolk County Council

Version	Date	Status of Version
0	21 July 2014	Final

This page has been left intentionally blank

Introduction

This document provides the Applicant's responses in respect of the substantial issues raised by CPRE in their Written Representation to the Examining Authority dated 27 June 2014.

The points have been responded to where possible in the order they were raised. Each issue, or in some cases a summary of it, is shown in italics.

Applicant's comment on Written Representations

Issue 1 - Principle of the Development. Consideration of alternatives and alternative alignments for the NDR which would address the needs and objectives of the scheme.

Representation

1.1. *We note that the Government support in both finance and rationale for NSIP status is from the Airport to Postwick; it does not apply to the NDR west of the Airport. There is also a suggestion implicit in this that the A47 from Postwick to Yarmouth and Lowestoft might also be dualled along this entire length. Roads are constructed on the basis of a 60 year time horizon as regards benefits and costs, and it is reasonable to consider what else might happen in this period. We therefore suggest that there are two considerations here that are not dealt with.*

Applicant's comment

- 1.1.1. There are notable transport benefits in delivering the NDR scheme to the A1067. The report on Traffic and Economic Appraisal of NDR Alternatives (TEAA) (Document Ref 5.12) includes the results of appraisal of Alternative 2, which comprises a dual carriageway between the A140 and the A47(E) at Postwick – i.e. the Scheme but without the section between the A140 and the A1067. The results, including effects on traffic flows, junctions, safety, and economics, are presented in Section 6.
- 1.1.2. Alternative 2 would not provide any relief to roads and communities to the west of the A140, and in some cases there would be increases (section 6.1).

- 1.1.3. Table 6.6 in section 6.4 shows that the Present Value of Benefits for Alternative 2 of some £550m are significantly less than that for the DCO Scheme, of some £989m. Alternative 2 has a lower cost than the DCO Scheme, and the resulting Benefit Cost Ratio is 4.114 compared to 5.331 for the DCO Scheme. This indicates that, in economic terms, the additional cost of the section between the A140 and the A1067 is forecast to be outweighed by the benefits it produces.
- 1.1.4. The TEAA (Document Ref 5.12) also includes the results of appraisal of Alternative 3, which comprises a dual carriageway between the A140 and the A47(E) at Postwick, together with a single carriageway between the A140 and the A1067. The results, including effects on traffic flows, junctions, safety, and economics, are presented in Section 7. Alternative 3 would provide relief to roads and communities to the west of the A140, but to a lesser degree than the DCO Scheme. (Section 7.1).
- 1.1.5. Table 7.6 in section 7.4 shows that the Present Value of Benefits for Alternative 3 of some £810m are less than that for the DCO Scheme, of some £989m. Alternative 3 has a lower cost than the DCO Scheme, and the resulting Benefit Cost Ratio is 4.841 compared to 5.331 for the DCO Scheme. This indicates that, in economic terms, the additional cost of the dual carriageway section between the A140 and the A1067, compared to a single carriageway, is forecast to be outweighed by the benefits it produces.
- 1.1.6. It is also important to note that the JCS Policy 9 requires the allocation of a minimum of 2000 dwellings within the Broadland part of the Norwich Policy Area but outside the 'Growth Triangle'. Broadland District Council's emerging site allocations plan has completed its pre-submission publication stage. As part of the JCS requirement, it allocates around 1,500 dwellings and significant commercial development in the parishes of Taverham, Drayton and Hellesdon (west of the A140), namely:

- Drayton : north of Hall Lane : 200 dwellings (PS20-01)
- Drayton : village centre : mixed use development including up to 20 dwellings and commercial uses (PS20-02)
- Hellesdon : Hospital Grounds adjacent to the A1067 : 300 dwellings and B1 uses. Policy requires development to be phased relative to the delivery of the NDR (PS31-01)
- Hellesdon : Golf Club either side of A1067 : 800-1,000 dwellings. Policy requires development to be phased relative to the delivery of the NDR (PS31-02)
- Taverham : Fir Covert Road (adjacent to A1067) : 5.6ha for commercial uses. Linked to a planning permission that includes full permission for 4,181m² gross retail supermarket and outline for around 4,500m² gross of A1, A3, A4 and B1 uses (PS58-01)

1.1.7. In addition Hellesdon Drayton and Taverham are a significant part of the defined “Norwich Urban Area” (JCS para 6.2) and can be expected to deliver ongoing windfall development.

1.1.8. The wider implications for the A140 to A1067 take into account the Norwich Area Transportation Strategy (NATS) Implementation Plan (NATS IP). This includes proposals for a Bus Rapid Transit (BRT) corridor along the existing A1067, which is a very difficult corridor in which to deliver in a cost effective way in view of the existing traffic levels through the built up areas in Taverham, Drayton and Hellesdon. The delivery of the NDR provides, in effect, a bypass for these communities and constrains traffic on the A1067 to less than 2012 levels, even by 2032, which provides the scope to introduce a BRT service, or significantly enhanced bus provision to support sustainable travel to and from the city for the existing and any expanded communities (refer to paragraph 7.1.17 of the Traffic Forecasting Report Document Ref. 5.6).

- 1.1.9. The NATS IP also provides for improved cycle networks within and beyond the City. The Taverham and Drayton communities have access to a high quality link called Marriott's Way (a permissive path providing a pedestrian, cycling and horse riding facility along the route of a disused railway). The reduction of traffic on the A1067 provides an improvement in terms of access to/from the Marriott's Way, and will enhance the ability for cyclists to cross the existing A1067 at the point at which the cycle route crosses the A1067, a particular benefit at peak hour periods for people commuting to the City by cycling to/from Taverham and Drayton.
- 1.1.10. The existing communities within Taverham and Drayton (which have expanded significantly over the last two decades with little or no improvements to the main highway infrastructure) also suffer as a consequence of traffic using the existing A1067, which also results in severance issues, particularly during peak periods. The introduction of the NDR, and the resulting reduction of traffic on the A1067, provides the scope to improve the communities and their accessibility to local services.
- 1.1.11. The response to ExA first Written Questions 10.8 shows the split between longer distance and local (within 10 miles of the city centre) trips. For the NDR west of A140 the analysis shows that between 71% and 76% of trips using the western NDR are longer distance trips, the range covering different time periods in the forecast years 2017 and 2032. Without the NDR west of the A140 these trips would use the existing suburban or city network.
- 1.1.12. At its Cabinet meeting in April 2012, following confirmation of Government funding for the NDR (having been successful in the 'Development Pool' bidding process), Members were provided the opportunity to review the extent of the NDR. It was considered that the NDR should be delivered to the A1067, to provide much needed relief for the existing communities of Taverham, Drayton and Hellesdon.

Members were clear that they considered the NDR important and they were content that the additional cost should be underwritten by the County Council. In addition, they took the view that the NDR should be dual carriageway for its entire length to the A1067. The Cabinet Member for Finance and Performance confirmed the support for the NDR and that it was considered to be affordable, a position that had been confirmed by the Head of Finance.

- 1.1.13. In conclusion the Applicant considers that because of all the above factors the western section of the Scheme between the A140 and the A1067 is justified and delivers valuable additional benefits compared to a route that extended only to the A140.
- 1.1.14. The forecasting undertaken for NDR has taken account of network improvements that are considered to be likely to proceed. These are set out in the 'uncertainty log' contained in the Traffic Forecasting Report (Document Ref. 5.6) in table 4.2. The A47 route is being reviewed by the Highways Agency but as yet there are no outcomes of that study and it is far from certain that they will include proposals to improve the A47 between Norwich, Great Yarmouth and Lowestoft to a continuous dual carriageway standard. On that basis the forecast networks did not include dual carriageway improvements to the A47 and as no such plans exist at present it is not considered necessary to test this hypothetical future change.

Representation

- 1.2. *What would likely be the demands made on the road network with regard to the off-shore energy industry, and to the overall Yarmouth-Lowestoft economy.*

Applicant's comment

- 1.2.1. The NDR will provide enhanced access between Great Yarmouth and Lowestoft and strategic destinations in the Norwich area including new and existing business development and Norwich International Airport (NIA). The airport plays a key role in the offshore energy industry in the southern North Sea. It provides frequent scheduled passenger services to a range of locations including Aberdeen, Manchester, and Amsterdam from where passengers connect to international destinations. The airport is also home to four of the leading offshore helicopter transport companies - Bristow, Bond, NHV and Dancopter – and it is understood that in NIA's last full year of reporting (2013) there were over 98,000 passenger movements by helicopter..
- 1.2.2. Great Yarmouth and Lowestoft benefit from an Enterprise Zone that took effect on 1st April 2012. The Enterprise Zone covers six sites totalling over 120 hectares of development-ready land. Approximately 75 hectares of the designated land lies within Great Yarmouth Borough.
- 1.2.3. The Enterprise Zone is designed to capitalise on the area's leading position in the energy sector. The energy sector has a particular focus on the offshore industry. The Enterprise Zone aims to create up to 1,400 jobs and attract 80 businesses by 2015 and 9,000 jobs and 200 businesses over the 25 year lifetime of the zone. While there has been no specific analysis of the potential for "back office" and other off-shore related businesses to locate in and around Norwich, some growth can be expected. With the NDR, locations such as Broadland Business Park, Rackheath and the airport area will be relatively convenient for

Great Yarmouth and Lowestoft while having the advantages of a Norwich location such as better transport connections and a wider range of other businesses to serve. The County Council are aware of at least 14 businesses (not including helicopter transport) in the Norwich area active in the offshore sector. Half of these are located close to the NDR mainly at NIA (3) and Rackheath (3).

- 1.2.4. Paragraph 7.1.3 of the Traffic Forecasting Report, (Document Ref 5.6) Vol 1 describes the forecast changes in traffic on the A47 to the east of Norwich with the Scheme. It explains that the increases are due to traffic reassignments from routes to the north and south of the A47 (particularly the A146 and A149). A further check has been carried out to examine this using the model to identify the change in the trips in 2032 AM peak to / from Great Yarmouth due to the NDR. This showed identical numbers of trips. It is concluded therefore from the modelling that the NDR on its own does not result in a significant change that could have a negative economic impact on Great Yarmouth.

Representation

- 1.3. *While the link, between Airport and the A47, might be nationally important, does that necessarily follow that a 'big road' is needed. In this respect, the NDR as it stands might be the proverbial sledge hammer used to crack the nut; other alternatives, such as alternative 5, the Developers Road, might be more than adequate.*

Applicant's comment

- 1.3.1. Alternative 5 has been assessed in the Traffic and Economic Appraisal of NDR Alternatives (Document Ref. 5.12). Specifically Section 8 contains an assessment of Alternative 5 which comprises developer link roads extended to enable a route through to the Airport.
- 1.3.2. Alternative 5 fails to reduce traffic on inappropriate routes and relieve the existing network. The developer link roads would not operate satisfactorily and they would cause particularly severe difficulties in implementing the proposed shared use high street-type design envisaged in the development proposals the delays would also mean that Alternative 5 would fail to meet the improved transport connectivity objective for the Scheme.

Representation

1.4. *NCC have not demonstrated that the extension beyond the Airport makes any contribution to the JCS objectives to 2026 over and above that provided from the Airport to Postwick. We conclude that the extension to the A1067 should be deleted. Any further extension west from the Airport, whether to the A1067, or on further to the A47, should be an issue for the next review of the JCS.*

Applicant's comment

- 1.4.1. A number of alternatives have been considered by NCC in meeting the needs as set out in section 3 of the Environmental Statement (Document Ref. 6.1). Further testing of alternatives using the DCO transport model has also been undertaken and is reported in The report on Traffic and Economic Appraisal of NDR Alternatives (TEAA) (Document Ref 5.12). This contains a rigorous assessment of the alternatives against the DCO Scheme.
- 1.4.2. Refer to Para 1.1.1 to 1.1.13 above regarding the case for the NDR west of the A140.

Representation

- 1.5. *Road planning to 2031 is running ahead of spatial strategies which run to 2026, and as such prejudices the land-use planning process. We should have planning led development, not new road led development. The DCO application leaves the door open to another growth triangle being levered in north by north-west of Norwich, and again bypassing the planning and consultation processes.*

Applicant's comment

- 1.5.1. All Local Plans have an end date for targets, and it is correct to note that the end date of the JCS is 2026. Growth will not end in 2026. Indeed, the JCS includes some spatially allocated growth for the post-2026 period with at least 3,000 dwellings in the Growth Triangle. The basic elements of the spatial geography will not change after 2026 and the Norwich urban area will continue to be the dominant generator of economic growth across the wider area.
- 1.5.2. With regard to the planning period and design year for the NDR, it is usual practice to design major infrastructure to cater for forecast future demand. For major road schemes the design year is taken as 15 years after opening, so in this case with a planned opening year of 2017 the design year is 2032. This is beyond the current JCS plan horizon of 2026, but that does not mean that growth will cease in 2026.
- 1.5.3. Any future growth proposals in this area will be subject to the normal development management and/or local planning processes for which consultation is a statutory requirement.

Representation

1.6. *The consultation in 2003, and the claimed 78% of respondents in favour of the NDR as part of the NATS, is seriously misleading in the context of what is happening now. In the 'full route' consultation of 2004 the NDR was presented on the principle of being a simple bypass to take east-west traffic past Norwich on the north side, in the same way that the earlier A47 bypass was presented and implemented. It was not presented as the pillar upon which to carry a massive amount of new development. Nor did the consultation extend to many who would be most affected by the road.*

Applicant's comment

- 1.6.1. In the 2003 NATS consultation document '*population growth and new housing development – there could be in the region of 30,000 new homes in the Norwich area by 2025*' was identified within the list of challenges published.
- 1.6.2. NCC's consultations, as described in Section 3.2 of the Pre-Application Consultation Report (Document Ref. 5.1), undertaken on the NDR sought comment on route options for the NDR between the A47 near Postwick and the A47 to the west of Norwich. These consultations and further consultation work undertaken in 2004 and 2005 helped to inform the decision made by its Cabinet in September 2005 to agree an adopted route for the NDR. This route was between the A47 at Postwick and the A1067 near Attlebridge (i.e. no link between the A1067 and A47) and it has not significantly changed up to the statutory pre-application consultations undertaken in accordance with Planning Act 2008.
- 1.6.3. All consultations undertaken since 2005 have shown the route of the NDR as being from the A47 at Postwick and the A1067 near Attlebridge. More recently these have included the statutory pre-application consultations and the consultations also undertaken in

April/May/June 2012 and February/March 2013 (as described in 3.3 and 3.4 of the Pre-application Consultation Report (Document Ref 5.1)). During these consultations there was the opportunity to comment on the route as well as on alternative ways of meeting the need.

- 1.6.4. The statutory pre-application consultation included consultation on the principle of and need for the NDR and on alternative ways of meeting the need and on the route of the NDR (as set out in the Statement of Community Consultation in Appendix J of Document Ref 5.1).
- 1.6.5. The main element of the NSIP DCO consultation involved holding 16 public exhibitions at locations in the vicinity of the NDR and within Norwich. Exhibitions were held between 8 July and 12 August 2013. Over 57,000 invites to the exhibitions were sent out to residential addresses, stakeholder groups, County/District/City Councillors and MPs/MEPs. The Section 47 and 48 consultations received 1492 responses, which is considered a good response rate and has allowed the local communities' main issues and views on the NDR to be identified. A total of 103 responses were received from local authorities, prescribed statutory consultees and those with an interest in land as a result of the consultations.

Representation

1.7. *The case for the NCC proposal rests heavily on computer modelling of traffic flow and standard procedures for evaluating cost benefits. These of courses are only as good as the soundness of the assumptions which underlie them. One such assumption is that the JCS ambitions and plan are delivered by 2026 and beyond, see above. There is a high degree of uncertainty in this regard. The JCS was conceived during the course of an economic boom and born in a recession.*

Applicant's comment

- 1.7.1. The level of housing and employment provision in the JCS is required to meet the objectively assessed need to support economic, household and population growth. This has been determined by the local plan process which is the appropriate mechanism. The examination process tests need and deliverability of the scale of development proposed.
- 1.7.2. While the economic downturn affected growth rates across the country over several years, the economy has returned to growth. Not providing the infrastructure needed to support development until market conditions are such that the development will be certain to take place would be a recipe for economic stagnation and will simply serve to prolong the effects of the recent downturn. Through the development of the National Infrastructure Plan the Government recognises that infrastructure is vital to the success of any modern economy and can stimulate growth and create jobs. A number of agencies are actively engaged in delivering the planned growth in the area, for example through the City Deal and SEP, including the Government, New Anglia LEP, Norfolk County Council and the Greater Norwich Growth Board (the delivery focussed successor to the Greater Norwich Development Partnership). While it is recognised that there is always uncertainty in

forecasts, this intervention will help ensure that the growth needs set out in the JCS are met or exceeded.

- 1.7.3. The NPPF requires local planning authorities to maintain a 5 year supply of housing land. These calculations build in backlog caused by reduced delivery in preceding years. Depending on circumstances, backlog is incorporated either entirely within the next 5 years or over the remaining life of the plan. Government policy is predicated on provision based on need not past performance, and then delivering planned growth in a timely fashion.

Representation

1.8. *The DCO is the JCS pillar to support a town at Rackheath of 10,000 dwellings for more than 20,000 residents, and with this a large amount of commercial, retail, manufacturing, service and leisure development. This might well attract some new business, but it will be in direct competition with existing businesses, taking away from Norwich city centre, Great Yarmouth, and market and coastal towns, such as Aylsham, North Walsham and Cromer.*

Applicant's comment

- 1.8.1. The economic development impact of NDR is set out in Land Use and Economic Development Report (Document Ref. 10.3). The Economic Impact Assessment of the proposed NDR is provided within the context of the JCS stated growth targets which are in place to guide the future of the Greater Norwich economy. The NDR is a key strategic piece of infrastructure and will play a key role in supporting the delivery of growth in housing and jobs over the next two decades.
- 1.8.2. The amount of development and the general location of development for the Greater Norwich area are detailed in the adopted JCS, the key adopted element of the development plan for Norwich and its surrounding area. This has been found to be sound following independent examinations of that strategy; most recently in 2013. As explained in paragraphs 2.11.2 to 2.11.9 of Volume 1 of the Environment Statement (ES) (Document Ref 6.1) the NDR scheme is identified as infrastructure which is fundamental to the achievement of the strategy in the JCS.
- 1.8.3. The level of employment provision in the JCS is required to meet the objectively assessed need to support economic, household and population growth. This has been determined by the local plan process which is the appropriate mechanism.

- 1.8.4. The JCS is the adopted strategy for the area and sets out the broad distribution type and scale of growth. It emphasises the need for the NDR as Priority 1 infrastructure as well as providing the spatial strategy for the area encompassing the city centre, the rest of the urban area and surrounding areas including market towns in Broadland and South Norfolk. The views of surrounding areas such as North Norfolk and Great Yarmouth were taken into account through the consultation process and more recently through the duty to co-operate. The JCS is evidenced based and subject to sustainability appraisal which includes economic considerations.
- 1.8.5. Norwich is a dominant regional city located within a largely rural county. As explained in Chapters 2 and 3 of Volume 1 of the ES (Document Ref 6.1) a number of objectives which centre on substantial population growth and economic development have been identified for the City of Norwich and its surrounding area. As explained in paragraphs 3.3.20 to 3.3.34 of Volume 1 of the ES (Document Reference 6.1), at the local level these objectives have been largely identified within the adopted JCS. As paragraphs 3.3.35 to 3.3.46 of Volume 1 of the ES further explain, these objectives benefit from support at the national level.
- 1.8.6. The purpose of the Land Use and Economic Development Report (Document Ref 10.3) is to provide an explanation of the relationship between the proposed NDR and sites earmarked for development and to assess the economic development impact of the NDR in terms of jobs and dwellings which are assessed on a site-by-site basis with respect to the influence of the NDR on bringing development forward. The report quantifies the economic benefits of the development sites located on or close to the line of the NDR and provides a qualitative assessment of wider economic effects, including within Norwich City Centre and at Great Yarmouth and the market towns of Aylsham and

North Walsham. Positive (but unquantified) effects are identified for these areas in Table 5.2 of the report.

Representation

1.9. *PINS had concluded that, while the loss of submissions was to be regretted, it did not affect the decision for acceptance of the SOCC, as the all the points in the missing responses were 'covered' elsewhere by respondents. CPRE feel that the points they raised over the legality of the process in terms of the provision by NCC of the 'necessary information' had not been raised by the any of the 'received' responses.*

Applicant's comment

1.9.1. NCC received over 1400 responses to its consultations under Section 47 of the Planning Act, which commented on a wide range of issues associated with the NDR proposals. NCC is aware that three submissions made by Norwich Green Party, CPRE and SNUB were on the balance of probabilities received but unfortunately were not logged. In respect of these submissions, the Planning Inspectorate has concluded that the points raised in them had been raised by other consultees and therefore are covered in the Consultation Report. A legal point raised about the changes to the legislation during the consultation process was addressed in any event in the Pre-application Consultation Report (Document Ref 5.1). In addition there will be further opportunity for these comments to be considered during the examination process.

1.9.2. With regard to the suggestion that CPRE's point about "necessary information" not being provided was a matter not raised by others in the pre-application consultation, it is apparent from the CPRE representation of 18 September 2013 that this concern related to the provision of adequate information on the balance of advantages and disadvantages of the NDR in the pre-application consultation and the extent of the consultation area. The adequacy of the consultation in terms of its extent and the nature of the information provided was a

matter that was included in the Consultation Report (Document Ref 5.1) as noted by PINS in the attachment to the letter dated 5 May 2014 to CPRE. The specific reference to “necessary information” would appear to relate to Article 7 of the Aarhus Convention and the decision referred to by CPRE in its representation of 18 September 2013 concerned a draft finding by the Aarhus Compliance Committee of the United Nations Economic Commission for Europe. That case (ACCC/C/2012/68, see Appendix A) concerned the question of whether a National Renewable Energy Action Plan adopted by the UK Government should have been subject to prior public participation and the Committee concluded that it should have been but rejected all the other complaints, including those concerned with the adequacy of the environmental information. The final decision does not demonstrate in any respect that the pre-application consultation on the NDR was in any way deficient with regard to the provision of information about the effects of the NDR or the extent of the consultation area.

- 1.9.3. The County Council’s Head of Procurement carried out an extremely thorough investigation, and although he was unable to arrive at a definitive view as to what happened, NCC have apologised to the Green Party, SNUB and CPRE. The full report has now been published (Review into missing submissions to Norwich Northern Distributor Road consultation process - included within Appendix A of NCC/EX/4 Applicants Comments on Relevant Representations) No other individuals or groups have come forward suggesting that their submissions have not been included within the consultation report.

Representation

1.10. *The alignment of the NDR and the associated development must inevitably increase traffic levels on the radial roads into Norwich from the north; consume several hundred acres of arable land as well as severance problems and costs; and in an area which is over-abstracted on water resource from the aquifer, a resource which has to be shared by domestic public water supply, and the needs for agriculture for spray irrigation*

Applicant's comment

- 1.10.1. The traffic flows forecast with the Northern Distributor Road (NDR) are compared to those without the Scheme in the Traffic Forecasting Report (Document Ref. 5.6) in Volume 3 Figures I.1 to I.4. These show that there are increases on some radial routes in the vicinity of where they connect with the NDR. However the Transport Assessment (Document Ref. 5.5) shows in section 8.5 that the NDR junctions are considered to operate acceptably well.
- 1.10.2. Furthermore the Traffic Forecasting Report in Vol 1 Section 7 describes the reductions in traffic in other parts of the network with NDR. In particular traffic would be reduced in the suburban area, including on radial routes and on inappropriate routes that are currently used by orbital traffic movements.
- 1.10.3. The effects on Landscape and Agricultural Land are presented within the ES (Document Ref. 6.1). The ES presents the findings of the EIA and details the effects of the Scheme, both adverse and beneficial.
- 1.10.4. An overall view of the results of the EIA is presented in the Non-Technical Summary (Document Ref. 6.3) Section 16 provides a Summary of Effects. The detailed analyses and assessments are presented within Volume 1 of the ES (Document Ref. 6.1). The

technical reports that support these assessments can be found in Volume 2 of the ES (Document Ref. 6.2).

- 1.10.5. Temporary effects that were identified for individual farm businesses were temporary land-take during construction and severance of fields and irrigation systems. This land will be fully restored to agricultural use once construction is completed and the mitigation put in place for construction is similar to mitigation for the operational phase of the Scheme.
- 1.10.6. When the criteria for assessment are applied there is a significant effect resulting from the loss agricultural land as a local resource. However, this assessment should be considered in relation to current farming practices and the benefits arising from a potential increase in biodiversity from intensively farmed land lost to habitat creation.
- 1.10.7. In the majority of instances where a public right of way has been severed an alternative diverted route has been provided. In the ES Volume 1, Chapter 13 (Document Ref. 6.1), overall, the assessment concludes that a Slight Adverse but not significant impact is anticipated for All Travellers during construction for a temporary period, as a result of construction delays, route diversions and the presence of construction plant. However, once the Scheme is operational, it is considered that there would be a Moderate Beneficial and therefore significant impact for All Travellers. This is as a result of reduced traffic and congestion on the majority of radial routes, improved amenity for Non Motorised Users (NMUs) and relief from existing severance within and between communities and facilities caused by existing high traffic levels.
- 1.10.8. The issue of water availability has been addressed within *The Joint Core Strategy Water Resource Availability Study Greater Norwich Addendum to Habitats Regulations Assessment to Consider Impact of Water Abstraction to 2015 Greater Norwich Development Partnership* (see Appendix B). This report confirmed that Anglian

Water would be in a position to supply water resources to development proposed within the JCS while maintaining reduced abstractions required by the Environment Agency from the Wensum Catchment.

Issue 2 - Traffic Flows

Representation

1.11. *If the section of the road, between B1149 and A1067, is built it will induce a very large number of vehicle movements with the aim of finding a route to or from the A47 on the western side on Norwich; it will cause 'rat-running' through a number of communities over a wide area.*

Applicant's comment

1.11.1. The traffic model produces predictions for travel on routes across the network, including those referred to by CPRE on page 8. Traffic flows at key points on the routes crossing the River Wensum are summarised in Table 7.1 of the Traffic Forecasting Report (Document Ref. 5.6). Section 7 Paragraph 7.1.8 to 7.1.14 analyses the traffic impacts at the western end of the NDR in the vicinity of Taverham and Drayton and especially the impact on traffic crossing the Wensum Valley. On page 9 of the CPRE response it requests 'traffic flow effects induced by the NDR' on six other routes, with the seasonal effects of summer and winter. Traffic forecasts are shown at locations on five of these six routes in the diagrams in Figures I.1 to I.5, but it should be noted that the forecasts for the network with NDR in place are primarily as a result of traffic reassignment rather than induced traffic which is a term widely used to mean the extra trips as a result of a new road scheme. As explained in Section 4.3 of Document Ref 5.9 the models have been developed to cover an average weekday in a neutral month. Seasonal effects are not explicitly modelled. However the AADTs reported in Section 7.1 of Traffic Forecasting Report (Document Ref 5.6) have been derived by taking into account yearly seasonal variation in observed traffic flows.

- 1.11.2. Regarding traffic crossing the River Wensum, the traffic model shows that the NDR leads to a decrease in daily traffic on the routes that connect the A1067 with the A47(T) to the west of Norwich of 6% in 2017 and 4% in 2032 as shown in Table 7.1, although there is an increase in traffic on the western part of the corridor (between Lenwade / Weston Longville and Hockering) which has, separately to the NDR project, already received highway and traffic management improvements. (Further details on this have been provided in response to ExA first Written Questions 10.10.)
- 1.11.3. In Figure I.3 in Vol3 of the Traffic Forecasting Report site A54 shows there would be a forecast reduction with the NDR on the A1067 Fakenham Road east of the connection with NDR.

Representation

- 1.12. *The DCO proposal to extend beyond the Airport pre-empts decisions which require a land use planning consideration through JCS review, preceded by a fully informed public consultation process which provides the necessary information; and progressed through open public meetings.*

Applicant's comment

- 1.12.1. The full Scheme, including the section west of the A140 to the A1067, was part of the base case for the development of the adopted Joint Core Strategy. Any future growth proposals in this area will be subject to the normal development management and/or local planning processes for which consultation is a statutory requirement.

Issue 3 – Visual, Noise and Air Quality Impacts

Representation

1.13. *Others parishes are also likely to be affected by the visual, noise and air quality impacts of the NDR. Those in the west include Hockering, Weston Longville, Honingham, Ringland, Costessey and Felthorpe.*

Applicant's comment

- 1.13.1. The traffic modelling that has been undertaken for the Norwich area, formed the basis of the overall geographical extent considered in the air quality assessment. However, only areas where changes in traffic flow, and therefore emissions, have the potential to cause significant effects on local air quality have been considered in detail. This assessment was consistent with the (DMRB) (Highways Agency, 2007),
- 1.13.2. For noise impacts The Design Manual for Roads and Bridges (DMRB) Volume 11 Section 3 Part 7 HD213/11 Noise and Vibration (2011) describes the methodology for the assessment of road projects in the UK this methodology was used for the assessment of the NDR. The methodology requires that the study area is identified as an area within 1km of the physical works associated with the Scheme. Within this study area, road traffic noise predictions are performed at any sensitive receptor within 600m of a road where there is the possibility of a change of 1 dB LA10,18hr upon Scheme opening, or 3 dB LA10,18hr in the long term.
- 1.13.3. For potential effects due to road traffic noise outside of the 1km area, the methodology requires that sensitive receptors are identified adjacent to roads where the change in received road traffic noise level would, as a result of the proposed Scheme, increase or decrease by at least 1 dB LA10,18hr on opening or 3 dB in the long term. Consequently, the spatial

extents of the assessment extend beyond the physical works associated with the Scheme. The above were covered within the modelled area.

- 1.13.4. For Landscape effects the spatial scope for the Landscape and Visual assessment has been broadly taken as the area bounded by the 'Zone of Visual Influence' (ZVI) of the proposed scheme. This is a band extending up to 1km either side of the of the NDR (i.e. the distance beyond which views are unlikely to be significant) and its associated works (including temporary construction site areas), and is indicative of the area of land from which there is potentially a view of any part of the proposed road, its structures, or the traffic which will use it. Changes to traffic on roads outside of this ZVI have not been considered within the landscape chapter of the ES.
- 1.13.5. An overall view of the results of the EIA is presented in the Non-Technical Summary (Document Ref. 6.3) in which Section 16 provides a Summary of Effects. The detailed analyses and assessments are presented within Volume 1 of the ES (Document Ref. 6.1). The technical reports that support these assessments can be found in Volume 2 of the ES (Document Ref. 6.2).
- 1.13.6. The proposed Scheme incorporates measures to prevent, reduce and where possible offset environmental impacts from the earliest stage of the project. Specific details of the proposed mitigation measures are included in the individual topic sections of the ES. The proposed measures were designed according to statutory and non-statutory guidance and the Design Manual for Roads and Bridges (DMRB) to provide proposals that are proportionate to the significance of the relevant effect. Such mitigation measures are set out in the requirements in the draft Development Consent Order (DCO) and NCC is committed to delivering them as an integral part of the proposed Scheme.

Issue 4 – Natural Environment: Habitat Regulations

Representation

1.14. *Increasingly over a number of years the Norfolk Coast Partnership Management Plan, the National Trust, and wildlife organisations have had difficulties in mitigating the traffic and people pressures on the coast, the latter including wildlife disturbance in the breeding season. This impact of the NDR should not be considered as standalone, but taken together with the completion of dualling on the A11.*

Applicant's comment

1.14.1. One of the aims of the NDR is to improve connectivity across the north of Norwich by providing a route to distribute traffic including to the coastal areas. The A11 provides a dual carriageway from London to Norwich that will improve connectivity with the rest of the country. The A11 improvement to dual carriageway standard has been included in the transport modelling and therefore the forecasts produced take account of this. Insofar as the connectivity improvements increase tourist activity and therefore visitor pressure, generally visitor pressure at sensitive times to wildlife is managed by the wildlife organisations locally. There have been no representations submitted by either the Norfolk Coast Partnership or the National Trust. Natural England has not raised any concerns about increased visitor pressure on wildlife sites on the Norfolk coast.

Representation

1.15. *We do however take issue with document 6.2.17, ES Volume 2, Chapter 17, Habitats Regulation Assessment, and the traffic forecasts shown at Table D.2, Average Annual Daily Traffic on key routes near to and crossing the River Wensum. The conclusion is drawn is that for the do something scenario 'the impact on the River Wensum from traffic on nearby roads with a direct link with the River Wensum would be strongly beneficial compared to the do minimum scenario. We ask whether in fact the do something scenario used is a full route NDR, which while adversely affecting the SAC status of the river, would remove traffic from these roads, as recognised by the second largest group of objectors to the DCO NDR.*

Applicant's comment

1.15.1. The forecasts of traffic crossing the River Wensum are for the published Scheme between Postwick Junction and the A1067, not for an alternative that includes a new road link across the river.

Representation

- 1.16. *In addition to agricultural run-off, the grinding down of roadside banks near a watercourse plays a large part in water borne soil erosion. The entry of silt into chalk rivers such as the Wensum results in the smothering of gravel beds in the river, a key in-river habitat for invertebrates and for fish, both for feeding and spawning.*

Applicant's comment

- 1.16.1. A Habitats Regulations Assessment (HRA) has considered any potential effects on protected sites and species. This has been undertaken in consultation with Natural England (NE) and the Environment Agency (EA) who have the responsibility for the protection of the Wensum Special Area of Conservation (SAC). This can be found in Volume 11: Chapter 17 of the ES (Document Ref 6.2). HRA, After consultation NE and the EA required clarification and further details on the mitigation required to prevent silt entering the Wensum via the existing road network at the western extent of the Scheme. An addendum is still in draft form and is being reviewed by NE and the EA this will be made public as soon as the Statutory Bodies have finished the review of the data submitted. It is anticipated this document will be finalised by early August 2014.

Issue 5 – Compulsory Acquisition

Representation

1.17. *In our view there is no public interest in the compulsory acquisition of land to the west of the B1149.*

Applicant's comment

1.17.1. Refer to Para 1.1.1 to 1.1.13 above.

Appendix A

Draft findings and recommendations with regard to communication ACCC/C/2012/68 concerning compliance by the United Kingdom and the European Union

Adopted by the Compliance Committee on 24 September 2013

I. Introduction

1. On 12 March 2012, a member of the public, Ms. Christine Metcalfe on behalf of the Avich and Kilchrenan Community Council, submitted a communication to the Compliance Committee under the Convention Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (hereinafter “the Aarhus Convention” or “the Convention”) alleging that the United Kingdom of Great Britain and Northern Ireland (UK) and the European Union (EU) had failed to comply with their obligations in relation to the renewable energy programmes and two related projects, for a wind farm and its access route, in the area of Argyll, Scotland.
2. Specifically, the communication relates to the implementation of the renewable energy programme in Scotland and two specific projects in the Avich and Kilchrenan area of Argyll related to that programme, the i.e. Carriag Gheal wind farm and the linked access West Loch Awe Timber Haul Route. The communicant alleges that the authorities at the EU, UK and Scottish administrative levels failed to provide information to the public, as required by articles 4 and 5 of the Convention, regarding the implementation of the renewable energy programme, which involved also the implementation of a number of individual wind energy projects, such as the farm and the access route. The communication also alleges that due to the lack of transparency, effective public participation was impeded, contrary to articles 6 and 7 of the Convention. Finally, the communication alleges that there are no adequate review procedures for members of the public to challenge the failures of access to information and public participation as required by article 9, paragraphs 1 and 2, of the Convention, while the costs for engaging in such procedures are prohibitively high, contrary to article 9, paragraph 4, of the Convention.
3. The communication also raises concerns with regard to the adoption process of a recent European Commission communication on renewable energy policy (Renewable Energy: a major player in the European Energy market” (COM(2012)271)) and compliance by the EU with the public participation provisions of the Convention.
4. At its thirty-sixth meeting (27-30 March 2012), the Committee determined on a preliminary basis that the communication was admissible.
5. Pursuant to paragraph 22 of the annex to decision I/7 of the Meeting of the Parties to the Convention, the communication was forwarded to the Parties concerned on 8 May 2012. On the same date, a letter was sent to the communicant. All were asked to address a number of questions by the Committee.
6. The communicant answered the Committee’s questions by letter of 24 September 2012. The Party concerned (EU) and the Party concerned (UK) responded to the communication on 8 October 2012. The communicant submitted additional information on 24 November 2012.
7. At its thirty-eighth meeting (25-28 September 2012), the Committee agreed to discuss the content of the communication at its thirty-ninth meeting (11-14 December 2012).

8. Additional information was submitted by the communicant on 24 November 2012.
9. The Committee discussed the communication at its thirty-ninth meeting, with the participation of representatives of the communicant and the Parties concerned. At the same meeting, the Committee confirmed the admissibility of the communication. During the discussion, the Committee posed a number of questions to both the communicant and the Parties concerned and invited them to respond in writing after the meeting.
10. The communicant submitted its response on 8 February and the Parties concerned on 11 February 2013. Information was also submitted by an observer on 3 March 2013.
11. At its fortieth meeting, the Committee decided to put additional questions to the parties.
12. The Parties concerned submitted its response on 17 May and the communicant on 18 May 2013. Additional information was submitted by an observer on 13 June 2013.
13. The Committee prepared draft findings at its forty-first meeting (25-28 June 2013), completing the draft through its electronic decision-making procedure. In accordance with paragraph 34 of the annex to decision I/7, the draft findings were then forwarded for comments to the Parties concerned and the communicant on 30 July 2013. All were invited to provide comments by 27 August 2013.
14. The EU and the UK both provided comments on 27 August 2013, and the UK provided additional comments on 6 September 2013; the communicant provided comments on 23 August and additional comments on 2 September 2013.
15. At its forty-second meeting (24-27 September 2013), the Committee proceeded to finalize its findings in closed session, taking account of the comments received. The Committee then adopted its findings and agreed that they should be published as a formal pre-session document to its [...] meeting. It requested the secretariat to send the findings to the Parties concerned and the communicant.

II. Summary of facts, evidence and issues¹

A. Legal framework

Legal framework of the EU

16. Concerning the legislative framework for the use of renewable energy sources of the EU and its member States, Directive 2009/28/EC on the promotion of the use of energy from renewable sources obliges Member States to increase the use of energy from renewable sources and contains a mandatory target of a 20% share of overall energy consumption in the EU to come from renewable sources. Member States have to develop National Renewable Energy Plans (NREAPs) (see paras. 21-23 of findings on communication ACCC/C/2010/54 (ECE/MP.PP/C.1/2012/12)).²

¹ This section summarizes only the main facts, evidence and issues considered to be relevant to the question of compliance, as presented to and considered by the Committee.

² Directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC.

17. Concerning access to information, Directive 2003/4 on public access to information,³ aimed to bring EU legislation in line with the Convention (see paras. 26-27 of findings on communication ACCC/C/2010/54 (ECE/MP.PP/C.1/2012/12)).

18. Concerning public participation, the EU has in place a regulatory framework relevant for the conduct of, among other things, environmental impact assessment and strategic environmental assessment in the Member States (see paras. 28-32 of findings on communication ACCC/C/2010/54 (ECE/MP.PP/C.1/2012/12)).

19. Finally, Regulation 1367/2006 (the Aarhus Regulation)⁴ addresses implementation of the Convention vis-à-vis all EU institutions and bodies and lays down related requirements. The Regulation extends the application of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents to all EU institutions and bodies; it requires those institutions and bodies to provide for public participation in the preparation, modification or review of “plans and programmes relating to the environment”; and also enables environmental NGOs meeting the criteria laid down in the Regulation to request an internal review of acts or omissions by EU institutions and bodies.

Legal framework of the UK

20. The Electricity Act 1989 (England, Wales and Scotland Law) sets out the framework for public electricity supply and reorganization of the electrical industry. The Act, among other things, regulates licensing and the rights to enter land and carry out construction projects, as necessary for the building or maintenance of the network. With respect to environmental management in general, persons authorised to generate and/or supply electricity must have a regard for the conservation of the flora and fauna, and any geological features of special interest.

21. In Scotland, the construction, extension and operation of power stations over a certain capacity is subject to the consent of the Scottish Ministers (Sec. 36 of the Act). The Energy Consents and Deployment Unit administers applications on behalf of the Ministers. The process for application to consent includes a consultation phase. An EIA procedure is carried out according to the Guidance On The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 and the Guidance for Electricity Works EIA Regulations 2008.

22. In considering applications under the Act, the Scottish Ministers are called upon to examine a wide range of issues: these include any written representations from members of the public alongside consultation responses, legal and planning obligations and the compliance of the proposal with current Scottish Government policy. Consent is granted after consideration of potential benefits and shortcomings of the proposed project.

23. The latest revisions to the procedure for consent under Section 36, which came into effect after the projects at stake were consented to, aim to further ensure that all relevant stakeholders are able to participate fully in the decision-making process. They do so by requiring that the Energy Consents and Deployment Unit seek to make available on their

³ Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information, replacing and repealing Directive 90/313/EC on the freedom of access to information on the environment.

⁴ Regulation (EC) No. 1367/2006 of the European Parliament and of the Council on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ L 264, 25.9.2006, p.13). The Regulation entered into force on 28 September 2006 and became effective on 17 July 2007.

web site information regarding live projects in order to improve access for members of the public to all details of proposed projects and encourages members of the public to submit representations electronically.

24. Ownership of the national forest estate in Scotland is held by the Ministers. The Forestry Commission Scotland (FCS)⁵ serves as the forestry directorate of the Scottish Government. Activities carried out include maintenance and improvement of the natural environment, the provision of recreation, timber harvesting, replanting of harvested areas, etc.

25. For some types of forestry projects (afforestation, deforestation, forest roads and forestry quarries) which are likely to have a significant impact on the environment and are above certain thresholds set by law, a formal consent for the work to take place is required by the FCS. An EIA procedure is then conducted according to the EIA (Forestry) (Scotland) Regulations 1999 to determine whether consent should be given for the work to go ahead. The FCS Conservancy Office discharges the Scottish Ministers' responsibilities under the Environmental Impact Regulations that apply in forestry projects.

26. The Forest Enterprise Scotland is an executive agency of FCS and operates at arm's length of the FCS. Its internal governance is separate from FCS, including a different Chief Executive and Management Board. The Enterprise is not involved in the evaluation or determination of the EIA report, but rather has the role of a private individual or organization that may bring projects for screening against EIA (forestry) regulations.

B. Facts

27. The communication raises concerns of non-compliance with respect to the processes for the adoption of the renewable energy strategy/policy documentation by the EU and the UK/Scotland. The communication focuses in particular on the renewable energy programme in Scotland and two projects related to this programme, i.e. Carriag Gheal wind farm and the West Loch Awe Timber Haul Route (hereinafter "the wind farm" and "the access route"), which was designed to facilitate access to the wind farm site. The access route is close to a nesting site of Golden Eagles, a protected species. The communicant acts as a Community Councillor in the Avich and Kilchrenan area of Argyll, where the two projects have been undertaken.

The European Commission communication on renewable energy strategy

28. Early 2012, the European Commission initiated consultations on its renewable energy strategy. The general principles and minimum standards of consultation were laid out in Communication "Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission" (COM(2002) 704). On 6 June 2012, the European Commission adopted a communication entitled "Renewable Energy: a major player in the European Energy market" (COM(2012)271), which presents the final decision of the Commission's renewable energy policy.

Renewable energy strategy in the UK/Scotland

⁵ <http://www.forestry.gov.uk/scotland>.

29. The UK Renewable Energy Strategy (RES) was published by the Government in July 2009. Public consultations were carried out in 2008.⁶ At the time of submission of the present communication, Scottish authorities were completing the scoping exercise for a new SEA for the renewable energy programme. As Community Councillor, the communicant is able to have questions raised, via a Member of the Scottish Parliament, in the Scottish Parliament.

30. The National Renewable Energy Action Plan (NREAP) of the UK, adopted under Directive 2009/28/EC in June 2010, outlines the objectives and implementation mechanism in the renewable action plans in the different parts of the UK, and the measures that the UK is taking to meet the renewables targets set by the Directive. The NREAP was based on the RES.

The wind farm and access route projects

31. The applications for the wind farm and the access route were processed separately, and the carrying out of the EIA procedures for each project was also separate. For the access route, the EIA (forestry) (Scotland) Regulations 1999 applied and the competent authority was the FCS.

32. The EIA report for the wind farm project referred to reductions in emissions and fuel savings. The Avich and Kilchrenan Community Council found that the information did not refer to properly established figures and that the EIA report overstated what actual savings would occur. It made a submission to the competent authority.

33. During the EIA procedure for the access route, public consultations were conducted. The documentation was available on the FCS website.

34. During the process, the communicant made requests for environmental information to the FCS. The requests related in particular to the alternative routes included as part of the EIA documentation, including feasibility studies that had been carried out in 2001, in the context of a FCS bid to the European Regional Development Fund – the bid was not successful and most of the documentation had been destroyed. Some of the documentation was retrieved and shared with the communicant.

35. Nine responses were received, one from the communicant, and no outstanding objections from statutory agencies. The Scottish Natural Heritage, who advised both FCS and Scottish Ministers on matters relating to wildlife and habitats, and the Royal Society for the Protection of Birds did not object to the proposed route.

36. After the EIA reports were adopted there was a six-week deadline for submission of objections, but no objection was received.

Other requests for environmental information

37. Apart from the access to information requests in the context of consultations for the wind farm and the access route, the communicant also made the following requests for information relating to emissions savings data, which may be summarized as follows:

38. On 24 January 2012, the communicant, as Community Councillor, requested information from the EU Commission with regard to the GPWIND,⁷ i.e. how the Commission ensured compliance with article 5 of the Aarhus Regulation (annex 1 to the communication). The complaint is currently part of an appeal to the EU Ombudsman.

⁶

http://webarchive.nationalarchives.gov.uk/20100509134746/http://www.decc.gov.uk/en/content/cms/consultations/cons_res/cons_res.aspx.

⁷ <http://www.project-gpwind.eu>.

39. In 2012, in relation to the Electricity Generating Policy Statement and Renewable Energy Routemap for 2020 (second edition, published in November 2012), the communicant asked the Scottish authorities what measures they had implemented to ensure that the “qualitative assessments”, alternative proposals to achieve them and the likely state of the environment without implementation of the plan, were up-to-date, accurate and comparable. The authorities replied on 4 April 2012 that they were not required to generate data where none existed and were obliged only to include the information that might reasonably be required for the SEAs (annex 7 of the additional information of the communicant of 24 September 2012).

40. In December 2011, the communicant contacted the UK Department for Environment, Food and Rural Affairs (DEFRA) about issues of alleged non-compliance with the Convention, especially with article 3, paragraph 1. DEFRA referred the matter to the Department of Energy and Climate Change (DECC) (annex 2 to the communication). The answer was not to the satisfaction of the communicant.

C. Domestic remedies and admissibility

41. A complaint concerning the matter of this communication was lodged with the European Commission (CHAP(2010)02125) on the basis of possible violation of the EIA and Habitats Directives. The Commission responded on 29 February 2012 (annex 1 to the communicant’s information of 24 September 2012). The reaction was not to the satisfaction of the communicant, who submitted a complaint to the EU Ombudsman. The case was closed on 21 June 2013.

42. The communicant submitted a complaint with the Information Commissioner (annex 3 to the communication), because in her view the SEA for the Electricity Generating Policy Statement and the Renewable Energy Routemap 2020 of the Scottish Government was not carried out according to the requirements of EU law (annex 8 to the communicant’s additional information of 24 September 2012). The Commissioner replied that his remit was solely to establish whether the Environmental Information Regulations had been correctly applied.

43. The communicant submitted a complaint to the UK Ombudsman concerning the failure of DEFRA and then DECC (annex 2 to the communication) to respond to requests for information on emissions savings. The UK Ombudsman responded that they could not consider complaints about the accuracy of information and referred the matter to the Information Commissioner.

44. The communicant together with other stakeholders including the European Platform Against Windfarms (EPAW) submitted to the Commission a request for internal review of the communication on “Renewable Energy: a major player in the European Energy market” (COM(2012)271) adopted by the European Commission on 6 June 2012, under article 10 paragraph 1 of the Aarhus Regulation (1367/2006), on a variety of grounds. The request was found to be not admissible on the grounds that the document in question is not an administrative act within the meaning of the Regulation.

45. On 18 March 2013, EPAW filed a complaint with the General Court for the annulment of the communication in question. The Court found the application admissible and the matter is pending.

46. The United Kingdom argues that, with the exception of her complaints to the Information Commissioner, the communicant has not otherwise sought to invoke remedies that would be available to her in the national courts if she was correct in her assertion that the UK was not in compliance with the Convention.

47. Similarly, the EU is of the view that the communicant has not exhausted all available remedies at the EU level.

D. Substantive issues

48. According to the communication, the Parties concerned failed to comply with the provisions of the Convention on access to information, public participation and access to justice in implementing the renewable energy programme in Scotland, as well as the related projects for the wind farm and the access route in the locality of the communicant. In the view of the communicant, the lack of public participation in the design of renewable energy policy in support of onshore wind energy generation and the development consent for the Carraig Gheal wind farm and the related access route, are only examples of the uncontrolled expansion of wind energy farms in Scotland and throughout the EU space, following the UK and the EU goals to displace fuel generation, reduce greenhouse gas emissions and reach climate change strategic goals.

49. Both Parties concerned refute the communicant's allegations and comment on the lack of clarity as to the factual basis of the allegations and the precise nature of alleged non-compliance. The UK argues that the fact that the communicant opposes wind energy in general and the projects in particular does not entail that the UK failed to comply with the provisions of the Convention. In addition, the EU comments on the structure of the EU and its Member States and refers to the observations of the Committee in this respect (C/17 Lithuania) and argues that the communication rather concerns implementation of the Convention by the United Kingdom.

Access to, collection and dissemination of information (art. 4 and 5, paras. 1(a) and 2)

50. The communicant's allegations of non-compliance with the provisions of the Convention for access to and collection and dissemination of environmental information relate both to the design of the renewable energy policy and the decision-making for the wind farm.

51. The communicant alleges that the Parties concerned failed to ensure that the available environmental information relating to the energy policy (such as the greenhouse gas emission and fossil fuel savings) was transparent, up-to-date, accurate and comparable. Therefore, the Parties concerned failed to comply with article 5, paragraphs 1(a) and 2, of the Convention.

52. The communicant alleges that EU authorities never replied to her request on whether measures were in place to comply with article 5 of the Aarhus Regulation (concerning the quality of environmental information); and that DECC never replied to her request for information, initially submitted to DEFRA, concerning compliance with the Convention. Therefore, the Parties concerned failed to comply with article 4 of the Convention.

53. The communicant alleges that the FCS by having an ongoing policy of destruction of documents, which may include documents that fall under the Freedom of Information regulation, was not in a position to supply requested information concerning alternative routes to the access route and that therefore the UK failed to comply with articles 4 and 5 of the Convention. Additionally, the communicant alleges that this failure severely impacted on effective public participation.

54. The Party concerned (UK) refutes the communicant's allegations. It contends that the Scottish Government and the FCS have over the years responded to the substantial quantity of correspondence received from the communicant. The requested information was regularly provided in a manner that was transparent and effectively accessible. The Party had refrained from submitting all this evidence to the Committee, due to the volume, but that it was willing to submit it upon request. It argues that the fact that the communicant does not accept that the information she believed should be available was not available, is

not an indication that the Party concerned (UK) failed to comply with articles 4 and 5 of the Convention.

55. The Party concerned (UK) also stresses that the public participation exercises for the policy and the projects demonstrate that the competent authorities in taking the decision were actually in possession of the relevant environmental information.

56. The Party concerned (UK) also contends that the FCS' documents management policy did not prevent the communicant from studying any alternatives. The said policy is in accordance with the Freedom of Information legislation and Environmental Information Regulations. FCS engaged in lengthy correspondence and the relevant files were later found and supplied to her. At the advice of the FCS, the communicant could have addressed the matter to the Information Commissioner's Office, but she never did so.

Public participation (RES and NREAP) (art. 6 and 7)

57. The communicant alleges that the programme (RES) at issue is subject to the Convention, as a programme and as a project listed in Annex II of the EIA Directive, and therefore subject to the public participation requirements of article 6. According to the communicant, at no stage in the development of the UK RES and NREAP was any effort made by the UK authorities to inform those living in rural Scotland, who would be the most affected by the RES.

58. The communicant alleges that the consultation prior to the adoption of the UK NREAP and the related documentation were not in accordance with the standards set by the Convention, because:

(a) The plan was approved in a "fast track" manner in spite of unresolved environmental issues, thus precluding open and effective public participation at an early stage, when all options were open. For instance, no measures were taken to address the disproportionate impact of the RES on rural communities, although the environmental assessments recognized it; the impacts of wind-powered generation associated with landscape, noise and biodiversity were not assessed; and the documents did not mention the possibilities for access to justice; and

(b) The authorities failed to take due account of the outcome of public participation, as evidenced by the one-page only document of comments that ignored a significant number of informed submissions critical of the authorities' assessment of renewable potential. According to the communicant, consultation on Scotland's SEA of the Renewable Energy Routemap and Electricity Generation Policy began only 2012, i.e. after the adoption of the RES and the NREAP. For these reasons, the communicant alleges that the UK failed to comply with article 7, in conjunction with article 6, paragraphs 4 and 8, of the Convention. According to the communicant, the SEAs for energy in the UK were initiated only after the NREAP had been adopted and options were no longer available.

59. With respect to article 7, the Party concerned (UK) contends that in adopting the NREAP it fully complied with the public participation requirements of the Convention. According to the UK, the NREAP does not set the framework for the determination of consent applications for renewable energy projects and an SEA is not required – unlike the National Policy Statement for renewable energy, for which an SEA is conducted. However, extensive consultations were carried out on the occasion of the following:

(a) The drafting of the NREAP used the content and analytical work contained in the Renewable Energy Strategy published by the Government in July 2009. The Strategy was developed following a consultation in June 2008 and Impact Assessments of proposals for renewable electricity, renewable heat and transport. Responses were received, while conferences and seminars were organized with individuals, business and other organizations to discuss the Strategy. A summary of responses was published on the Department for Business, Enterprise and Regulatory

Reform's web site and showed that the majority of respondents agreed with the majority of the proposals set out in the consultation.

(b) In Scotland, the Scottish Government set out objectives in respect of renewable energy in its Renewables Action Plan, published in July 2009 and the Scottish Renewables Routemap. Both were subjected to public consultation, including SEA. The latest public consultation on renewable targets (Electricity Generation Policy Statement and an SEA) was organized from March to June 2012. The consultation responses were being processed at the time of consideration of the communication.

60. The EU agrees with the UK position that Scottish authorities had conducted extensive consultations on the plans, including SEA under applicable EU law.

61. Concerning the application of article 7 of the Convention to NREAPs, the EU notes that this was already the subject of communication ACCC/C/2010/54 and that the EU is reflecting on possible ways of improving the effective implementation of article 7 by Member States when they prepare NREAPs.

Public participation and the European Commission energy communication (art. 7)

62. The communicant alleges that public participation in the context of the renewable energy strategy of the European Commission (COM(2012) 271) also failed to comply with article 7 of the Convention. According to the communicant, it was the outcome of "professionally organised lobbying campaign", as demonstrated, for example, by the fact that there were 67 submissions from industry and only 28 from NGOs.

63. The Party concerned (EU) states that the Communication on renewable energy strategy (COM(2012)271) is not a plan or programme within the purview of article 7 of the Convention; but a political document of a non-legally binding nature, announcing the view of one EU institution as expressed to the other institutions (in particular the Parliament and the Council as co-legislators). The EU however notes that because Commission "communications" have the nature of a preparatory step, they could fall under the last sentence of article 7 of the Convention. In this respect the EU asserts that public consultations were conducted via a widely accessible website for a 12-week period, all in compliance with the Convention.

Clear, transparent and consistent framework (art. 3, para. 1)

64. In September 2012, the communicant also alleged that the EU failed to comply with article 3, paragraph 1, of the Convention, because the Aarhus Regulation and Commission Decision 2008/401/EC do not implement the necessary provisions of the Convention. That the objectives of the Convention are ignored in practice, the communicant alleges, is demonstrated by the current consultations in relation to projects of common interest in energy infrastructure.⁸

Public participation (wind farm and access route) (art. 6)

65. The communicant alleges that the wind farm and the access route are projects that fall under article 6, paragraph 1 (a) in conjunction with paragraph 20 of the annex to the Convention. The communicant, as Community Councillor, participated in the public participation organized in relation to the two projects at issue (the wind farm and the access road) and in her view those were not in accordance with article 6 of the Convention.

66. With respect to article 6 of the Convention, the UK contends that although the application for the wind farm was made to Scottish Ministers on 24 December 2004, i.e. before the entry into force of the Convention for the Party concerned (UK), the UK still

⁸ http://ec.europa.eu/energy/infrastructure/consultations/20120620_infrastructure_plan_en.htm.

complied with the requirements of article 6. Prior to consent, public consultation for the wind farm ran according to the Electricity Act 1989; and for the access route according to the EIA (Forestry) (Scotland) Regulations 1999.

67. According to the UK, during the public participation for the wind farm, individuals and organizations could make representations (for a time-line of the wind farm application see annex B to the response of the UK of 8 October 2012). The UK explains that a total of four consultations ran for the project, one for the original applications and 3 addenda (7 January 2005 – 10 February 2005, 1 November – 29 November 2005, 28 February 2006 – 28 March 2006 and 18 October 2007 – 23 November 2007). During the consultation proceedings, the Government received 440 representations, including 3 written objections from Avich and Kilchrenan Community Council (where the communicant is a Councillor) and 1 from the communicant herself. The Scottish Ministers considered all these objections and during the process they found that the benefits of the project outweighed any potential impacts.

68. With respect to the access route, the UK contends that an EIA procedure was duly organized, that the communicant was made aware of all project-related documentation available on the web site of the authority, and that she could have objected the EIA report six weeks after it was issued, but she had not done so. During the process, neither the Scottish Natural Heritage, who advised both FCS and Scottish Ministers on matters relating to wildlife and habitats, nor the Royal Society for the Protection of Birds objected. In the view of the Party concerned (UK) the fact that the FCS had a shared project objective with the developer of the wind farm does not in itself result in failure to comply with article 6 of the Convention.

69. The EU stresses that the European Commission, after having intensively investigated concerning the complaint received by the communicant alleging failure to respect public participation requirements in the design and implementation of the route leading to the windfarm, found that there was no infringement of the relevant EU legislation, including the EIA and Birds Directives (annexes to the response of the EU of 8 October 2012).

Access to justice (art. 9, paras. 1 and 2)

70. With regard to access to justice, the communicant alleges that although the Community Council was opposed to the projects, due to the costs involved, it was not possible to pursue judicial review of the project, in breach of article 9, paragraphs 1, 2 and 3, of the Convention.

71. With respect to article 9 of the Convention, the Party concerned (UK) notes that since the Committee is considering the issue of prohibitive costs claimed by the communicant elsewhere, it refrains from commenting on the allegations.

III. Consideration and evaluation by the Committee

72. The EU signed the Aarhus Convention on 25 June 1998 and approved it through Council Decision 2005/370/EC of 17 February 2005. The EU is a Party to the Convention since 17 May 2005.

73. The United Kingdom ratified the Convention on 23 February 2005. The Convention entered into force for the United Kingdom on 24 May 2005.

74. The Committee first examines the admissibility of the communication and then will focus its consideration on the public participation with respect to the decision-making for the wind farm, the access road, the NREAP (UK) and relevant documents adopted in Scotland. The Committee will not consider any allegations on access to justice. While the communicant included allegations of non-compliance by the Party concerned (UK) with the

Convention's requirement for non-prohibitive expensive judicial remedies, the communicant did not further elaborate on this matter in its subsequent written and oral submissions.

75. The Committee decides not to consider the allegations with respect to compliance by the EU for the preparation of COM (2012)271 because these are currently before the General Court (Case T-168/13 – EPAW v Commission) (see para. 45).

76. The Committee also decides not to consider the allegation that the EU fails to comply with article 3, paragraph 1, of the Convention because this submission was made late in the proceedings and not further substantiated by the communicant.

77. The Committee further decides not to consider whether the EU has in place a regulatory framework to ensure proper implementation of the Convention with respect to NREAPs, given that this was considered in its findings in ACCC/C/2010/54 concerning compliance by the European Union.

78. The Committee finally decides not to consider the submissions by an observer concerning a different development in Scotland, because this would broaden considerably the subject matter of the communication, the Parties concerned did not have the opportunity to respond to the allegations raised and it appears that complaints have been filed at the domestic level.

Admissibility of the communication

79. The Committee notes that according to decision I/7, annex, paragraph 13(a), the Committee's function is, among other things, to consider submissions and communications. Submissions may be brought by one or more Parties about another Party's compliance or by a Party concerning its own compliance (decision I/7, annex paragraphs 15 and 16); communications may be brought by members of the public concerning compliance by a Party (decision I/7, annex paragraph 18).

80. The present complaint was submitted as a "communication", on behalf of the Avich and Kilchrenan Community Council, a body with statutory duties within the Party concerned (UK). The Party concerned (UK) submitted that "it may be helpful to consider the communicant to be Mrs. Metcalfe in person". In this respect, the Committee considers whether the complaint at issue qualifies as a communication under paragraphs 18 of the annex to decision I/7.

81. In order to define the nature of the complaint, the Committee examines the role of community councils in Scotland. Although community councils have statutory duties in terms of licensing and planning, they have no regulatory decision-making functions and are essentially voluntary bodies established within a statutory framework. They mainly act to further the interests of the community and take action in the interest of the community as appears to be expedient and practicable, including representing the view of the community regarding planning applications.⁹ In addition, community councils rely on grants from local authorities and voluntary donations. Community Council members furthermore operate on a voluntary basis and do not receive payment for the services.

82. The Committee was also informed by the Party concerned (UK) that the representations from the Avich and Kilchrenan Community Council with regard to the projects at stake were recorded under the same section as representations from members of the public and non-governmental organizations.

⁹ See letter of the Party concerned of 20 December 2012 and also the websites <http://www.scotland.gov.uk/Topics/Government/PublicServiceReform/CommunityCouncils> and <http://www.highland.gov.uk/livinghere/communitiesandorganisations/communitycouncils>.

83. Based on the above, in particular the role of the council to represent the interests of the community in planning matters and the fact council members provide their services on a voluntary basis and have no regulatory decision-making functions, the Committee concludes that Community Councils in Scotland qualify as “the public” within the definition of article 2, para. 4, of the Convention. It thus decides to consider the present complaint as a communication under paragraph 18 of the annex to decision I/7, as submitted by Ms, Metcalfe on behalf of the Avich and Kilchrenan Community Council.

Access to, collection and dissemination of information (art. 4 and 5, paras. 1(a) and 2)

84. The communicant alleges that the authorities of both Parties concerned did not actively disseminate information regarding quantifiable data on the merits of wind energy projects in general or the information they disseminated was inadequate; nor did they provide this information at the communicant’s request. According to the communicant, lack of or inadequate provision of this information impeded effective public participation in the decision-making processes for the adoption of policies, programmes and plans at the EU, UK and Scottish levels.

85. Based on article 5 of the Convention, Parties have the obligation to possess and update environmental information which is relevant for their functions. This implies that public authorities competent for the development of plans, policies, strategies or projects in relation to wind energy should be in possession of all relevant available information. Empirical calculations of CO₂ reductions per policy, plan, programme or project did not seem to be readily available at the time. Instead, calculations were based on modelling and on percentage contributions to renewable energy only. The Committee notes that such calculations are contested.

86. As the Committee has already stated in previous findings (ACCC/C/2010/54 concerning compliance by the EU, ECE/MP.PP/C.1/2012/12, para. 89), “the Committee is not in a position to ascertain whether the technical information disseminated by the Party concerned, or the communicant for that matter, is correct.” In the present case, the communicant seems to advocate a method for the calculation of the merits of wind energy that is different from what the decision-making bodies accept. The Committee has neither the mandate nor the capacity to assess the environmental information in question as to its accuracy or adequacy.

87. Based on the above, the Committee is not in a position to conclude that the Parties concerned failed to comply with the provisions of articles 4 and 5 of the Convention.

88. The Committee, however, notes that different methods are currently available for calculating the CO₂ reductions generated by wind energy projects and that the outcomes of these methods vary considerably. The Committee considers that, based on article 5, paragraph 1(a), of the Convention, each Party is to ensure that ‘public authorities possess and update environmental information which is relevant to their functions’. For public authorities engaged in decision-making regarding wind energy, this includes data arising from the application of different methods for calculating the CO₂ reductions generated by wind energy projects, including data from actual measurements. The Committee in this respect also notes that a carbon calculator has recently been installed for the wind farm, as was agreed by the parties during the discussion at the Committee’s thirty-ninth meeting.

Public participation in relation to the Wind Farm (art. 6)

89. The Committee notes that the decision-making for the wind farm was initiated in November 2004, that is before the entry into force of the Convention for the Party concerned (UK). As pointed out by the Committee in its previous findings, in determining whether or not to consider certain domestic procedures initiated before the entry into force of the Convention for the Party concerned, it examines whether significant events of those processes had taken place since the Convention’s entry into force (cf. findings on ACCC/C/2008/27 concerning the UK (ECE/MP.PP/C.1/2005/2/Add.2), para. 34, and

ACCC/C/2008/26 concerning Austria (ECE/MP.PP/C.1/2009/6/Add.1), para. 49). In the present case, consultations ran in four phases, one for the original applications before the entry into force of the Convention and three for the addenda shortly after the entry into force of the Convention for the Party concerned (UK). The decision for the project was granted on 13 June 2008 (Scottish Ministers consent)¹⁰ and therefore important events, including consultations, took place after the entry into force of the Convention for the Party concerned (UK).

90. The wind farm is a project under article 6, paragraph 1(a) in conjunction with paragraph 20 of the annex to the Convention. The communicant's allegations relate to article 6, paragraphs 6 and 8, of the Convention.

91. With respect to article 6, paragraph 6, of the Convention the communicant submitted that no or inadequate information was provided with regard to the figures for the calculation of the reduction of CO₂ emissions from wind energy and that therefore effective public participation was impeded. The matter of technical data deriving from different methods for the calculation of the reduction of CO₂ emissions from wind energy projects was discussed in paragraphs 84 to 88 above. In line with what was concluded above, the Committee cannot conclude that the Party concerned (UK) failed to comply with article 6, paragraph 6, of the Convention.

92. On 8 and 11 February 2013, respectively, the communicant and the Party concerned (UK) provided detailed information on the comments submitted during the consultation for the wind farm project and how those were or were not taken into account.

93. In this regard, the Committee confirms that the requirement of article 6, paragraph 8, of the Convention that public authorities take due account of the outcome of public participation does not amount to a right of the public to veto the decision. In particular, this provision should not be read as requiring that the final say about the fate and design of the project rests with the local community living near the project, or that their acceptance is always required. Therefore the obligation to take due account of the outcome of the public participation should be interpreted as the obligation that the written reasoned decision includes a discussion of how the public participation was taken into account (findings on communication ACCC/C/2008/24 concerning Spain (ECE/MP.PP/C.1/2008/Add.1), para. 98 as well as remark by the Committee in the report of its twenty-fourth meeting (30 June – 3 July 2009) on the occasion of the scheduled discussion of communication ACCC/C/2008/29 concerning Poland, para. 29).

94. Having considered the information submitted by the parties in this regard, the Committee finds that the Party concerned (UK) overall duly took into account the comments submitted by the communicant and did not fail to comply with article 6, paragraph 8, of the Convention.

Public participation in relation to the access road (art. 6)

95. The access road is a project under article 6, paragraph 1(a), of the Convention, in conjunction with paragraph 20 of the annex to the Convention. As with respect to the Wind Farm, the decision-making process started in 2004, before the entry into force of the Convention for the UK. However, a number of significant events related to the issuing of the permit took place after the entry into force of the Convention. The communicant alleges that the Party concerned (UK) failed to comply with all obligations arising from article 6 of the Convention.

96. On 17 and 18 May 2013, respectively, the Party concerned (UK) and the communicant submitted detailed information on the public consultation process.

¹⁰ <http://www.scotland.gov.uk/Topics/Business-Industry/Energy/Infrastructure/Energy-Consents/Applications-Database/Carraig-Gheal-Index/Carraig-Gheal-Consent>.

97. The assessment of whether a Party concerned is in compliance with article 6 of the Convention depends on whether the steps taken to ensure public participation are commensurate with the size and possible environmental impact of the project. If for instance the project concerns the construction of a nuclear power plant, then there is clearly an obligation for the public notice to be advertised widely in national and local media. However, if a project is of local significance, such as the opening of a forest road, a public notice in local media may suffice for informing the public concerned (see also findings on communication ACCC/C/2006/16 concerning Lithuania (ECE/MP.PP/C.1/2008/5/Add.6), para. 67).

98. In this case, the Committee finds that the public concerned, including the communicant, had ample opportunity in more than one instance to participate in the consultation process and to submit comments. In this respect the Committee notes the following aspects. First, the way the notice for the project was advertised in the local press fits the local significance of the project and meets the requirements of article 6, paragraph 2, of the Convention. Second, the timeframes provided for public consultations (almost one month each time for the original and revised versions of the environmental statement) were reasonable and therefore in line with article 6, paragraph 3, of the Convention. Third, the public concerned was involved from the beginning of the process. The process was therefore in conformity with article 6, paragraph 4, of the Convention. Fourth, the comments submitted by the public were addressed, in particular the main point of concern regarding the protection of the Golden Eagle, entailing that the Party complied with the requirements of article 6, paragraph 6, of the Convention.

99. Based on the above, the Committee does not find the Party concerned (UK) failed to comply with the public participation provisions of article 6 of the Convention.

Public participation for plans and programmes – the UK NREAP (art. 7)

100. NREAPs are plans or programmes under article 7 of the Convention (see findings on ACCC/C/2010/54 (ECE/MP.PP/C.1/2012/12), para. 74) and as such are subject to public participation. The fact that the UK's Renewable Energy Strategy, which informed the NREAP, was subject to public participation does not affect this conclusion, given their different legal status and functions in the EU and UK legal framework respectively.

101. The Committee concludes that because the UK's NREAP was not subjected to public participation, the Party concerned (UK) failed to comply with article 7 of the Convention, in this regard.

Public participation in the preparation of plans, programmes and policies in Scotland (art. 7)

102. The communicant alleges non-compliance with article 7 of the Convention with respect to renewable energy policy documents in Scotland, in particular in relation to the Scottish Renewables Action Plan, the Scottish Renewables Routemap and the Electricity Generation Policy Statement. At the hearing the communicant, however, agreed that these documents had been subject to public participation and no longer challenged the compliance of these procedures with the Convention.

103. The Committee notes that the 2009 Scottish Renewable Action Plan was subject to public consultation in the context of the conduct of Strategic Environmental Impact Assessment.¹¹ Likewise the 2020 Routemap for Renewable Energy in Scotland, published in 2011, and Draft Electricity Generation Policy Statement, published in 2010, were subject

¹¹ <http://www.scotland.gov.uk/Topics/Business-Industry/Energy/Energy-sources/19185/Resources/20801/RAPCONS>

to Strategic Environmental Assessment in March 2012, in the context of which public participation took place.¹²

104. Given the facts noted in paragraph 103 above and the position of the communicant at the hearing (see para. 102), the Committee concludes that the Party concerned (EU) did not fail to comply with article 7 of the Convention, in this respect.

IV. Conclusions and recommendations

105. Having considered the above, the Committee adopts the findings and recommendations set out in the following paragraphs.

A. Main findings with regard to non-compliance

106. The Committee finds that because the UK's NREAP was not subjected to public participation, the Party concerned (UK) failed to comply with article 7 of the Convention.

107. In view of its consideration in paragraph 77, the Committee points the Party concerned (EU) to its findings and recommendations in communication ACCC/C/2010/54 (EU).

B. Recommendations

108. The Committee, pursuant to paragraph 35 of the annex to decision 1/7 of the Meeting of the Parties, recommends the Meeting of the Parties, pursuant to paragraph 37 (b) of the annex to decision I/7, to recommend to the Party concerned (UK) to in future submit plans and programmes similar in nature to NREAPs to public participation as required by article 7, in conjunction with the relevant paragraphs of article 6, the Convention.

¹² <http://www.scotland.gov.uk/Publications/2012/03/2294/2>.

Appendix B



Joint Core Strategy Habitats Regulation Assessment

Water Resource Availability Study
Greater Norwich – Addendum to Habitats
Regulations Assessment to Consider Impact of
Water Abstraction to 2015

June 2012

Greater Norwich Development Partnership

Joint Core Strategy Habitats Regulation Assessment

Water Resource Availability Study
Greater Norwich – Addendum to Habitats
Regulations Assessment to Consider Impact
of Water Abstraction to 2015
June 2012

Greater Norwich Development Partnership

PO Box 3466
Norwich, NR7 7NX

Issue and revision record

Revision	Date	Originator	Checker	Approver	Description
A	01/09/2010	AA Akindiji Peter Ede	Emma Waterhouse	Gerry Kelly	First Issue
B	15/09/2010	Peter Ede	Mark Johnston	Gerry Kelly	Revisions following discussions with Client
C	13/10/2010	Peter Ede	Mark Johnston	Mark Frith	Revisions following meeting with Client/EA, and meeting with Anglian Water
D		Peter Ede	Mark Johnston	Mark Frith	Revisions following further discussions with Client and Anglian Water
E	31/01/2012	Roger Burroughs (Broadland District Council) Peter Ede	Jackie Fookes	Mark Frith	Revisions following discussion with Anglian Water, Natural England and the Environment Agency
F	18/06/2012	Peter Ede	Jackie Fookes	Mark Frith	Minor revisions following further discussions.
G	23/06/2012	Peter Ede	Jackie Fookes	Mark Frith	Final



This document is issued for the party which commissioned it and for specific purposes connected with the above-captioned project only. It should not be relied upon by any other party or used for any other purpose.

We accept no responsibility for the consequences of this document being relied upon by any other party, or being used for any other purpose, or containing any error or omission which is due to an error or omission in data supplied to us by other parties

This document contains confidential information and proprietary intellectual property. It should not be shown to other parties without consent from us and from the party which commissioned it.

Contents

Chapter	Title	Page
1.	Introduction	1
1.1	Background _____	1
1.2	Sources of Information _____	2
2.	Assessment	4
2.1	Water Resources _____	4
2.1.1	Costessey Surface Water Abstraction _____	4
2.1.2	Thorpe St Andrew Abstraction _____	5
2.2	Relevant Reports _____	6
2.2.1	Review of Consents _____	6
2.2.2	Statement of common understanding, November, 2010 _____	7
2.3	Analysis _____	8
2.3.1	Costessey Flows _____	8
2.3.2	Available Water Resource _____	11
2.4	Future Water Requirements for Period up to 2015 _____	12
3.	Summary and Conclusions	17
4.	References	18
	Appendices	19
	Appendix A. Scope for Study _____	20
	Appendix B. Anglian Water Memorandum _____	21

1. Introduction

1.1 Background

Mott MacDonald has been commissioned by the Greater Norwich Development Partnership to undertake additional work to supplement the Habitats Regulation Assessment (HRA) produced for the joint core strategy for Broadland, Norwich and South Norfolk. This additional work assesses the potential effects of the assumptions in the Joint Core Strategy (JCA) for Broadland, Norwich and South Norfolk about development likely to happen within the current Anglian Water Asset Management Plan period. It focuses solely on the availability of potable water to serve this short term need without infringing the Habitats Regulations.

This study is a follow up to previous assessments undertaken by Mott MacDonald (Task 1 and Task 2 Appropriate Assessments) and will address identified uncertainties in available water resources within the Greater Norwich area. The uncertainties addressed in this study are specifically related to abstractions within the River Wensum Special Area of Conservation (SAC), in particular at the Costessey abstraction point.

It is believed that the abstraction of water at Costessey is impacting negatively on the lower reaches of the River Wensum SAC. To address this, the Environment Agency (EA) undertook a Review of Consents (RoC) for all licenses within the Wensum hydrometric catchment with the aim of altering the amount of water abstracted to reduce impacts on the River Wensum SAC. The results of this are summarised in paragraph 2.2.1.

The aim of this study is to establish whether existing licensed sources of water in the Greater Norwich area, with particular emphasis to the Wensum hydrometric catchment and SAC, can be used to meet development requirements in the immediate future up to 2015. In light of the conclusion of the RoC that existing levels of licensed abstraction are considered to be having an adverse effect on the integrity of the River Wensum SAC and that changes in the short term to public water supply arrangements are needed to remove this impact, it is also necessary to consider whether development needs could be met without fully utilising currently licensed abstraction. Long term measures will be assessed by Anglian Water Services (AWS) through future Asset Management Plan periods and are not included in this study. This will involve specific assessment under the Habitats Regulations.

The objectives of this study are to:

- Look at existing licensed abstractions particularly at Costessey and Thorpe St Andrew;
- Assess if fully utilising Thorpe St Andrew licensed abstraction combined with actual current abstraction at Costessey would cater for developmental needs in the short term. This should also be considered in light of the EA RoC;
- Assess if the above would avoid damage to the River Wensum SAC and thus comply with the Habitats Regulations or whether a reduction in existing levels of abstraction at Costessey would be compatible with an adequate level of supply of potable water to meet short term development needs.
- Verify that abstraction currently licensed at Thorpe St Andrew has been subject to an appropriate assessment and been through the RoC; and
- Quantify any resources identified which may be available for development, and relate to an equivalent in terms of dwellings.

The scope for the study is reproduced in Appendix A.

1.2 Sources of Information

Information used in undertaking this assessment was obtained from the following sources:

- Anglian Water Services (AWS) provided information on deployable outputs and forecast demand for the period up to 2015 from their Water Resource Management Plan (WRMP), and records of abstraction at Costessey;
- The Environment Agency provided abstraction licenses, hydrometric data on the River Wensum, location of borehole sampling points, groundwater data, discharge consents, the River Wensum Review of Consents SAC document and the Guidance Note on Growth and Water in Greater Norwich;
- Conclusions of the Environment Agency's RoC and Site Action Plans;
- Habitats Regulation Assessment: Joint Core Strategy for Broadland, Norwich and South Norfolk, Mott MacDonald February 2010;
- Evidence provided by AWS to the Examination in Public into the Joint Core Strategy for Broadland, Norwich and South Norfolk in November, 2010, and subsequent clarifying note (the latter reproduced as Appendix B);
- Statement of common understanding on water resources - Anglian Water, Environment Agency, Natural England dated 3rd November, 2010.

Other information used in the assessment was obtained from the Greater Norwich Development Partnership website (<http://www.gndp.org.uk/>), including the following:

- Joint Core Strategy for Broadland Norwich and South Norfolk: Proposed Submission Document November 2009; and
- Greater Norwich Development Partnership: Stage 2b Water Cycle Study, Technical Report Final, February 2010.

In addition to discussions with AWS and the EA about data, we contacted AWS to ascertain their position with regard to potential alternative sources of water that might allow abstraction from Costessey to be reduced. We also discussed relevant aspects of the work with Natural England.

2. Assessment

2.1 Water Resources

2.1.1 Costessey Surface Water Abstraction

Details of surface water abstraction from the River Wensum at Costessey (Licence No: 7/34/11/*S/0399) are presented in Table 2.1. The daily peak refers to abstractions from Costessey Pits; the licence for abstraction from the river (for input to the Pits) allows up to 120 MI/d, but this is only used for short periods if storage in the Pits has dropped.

Table 2.1: Costessey Abstraction Licence Information

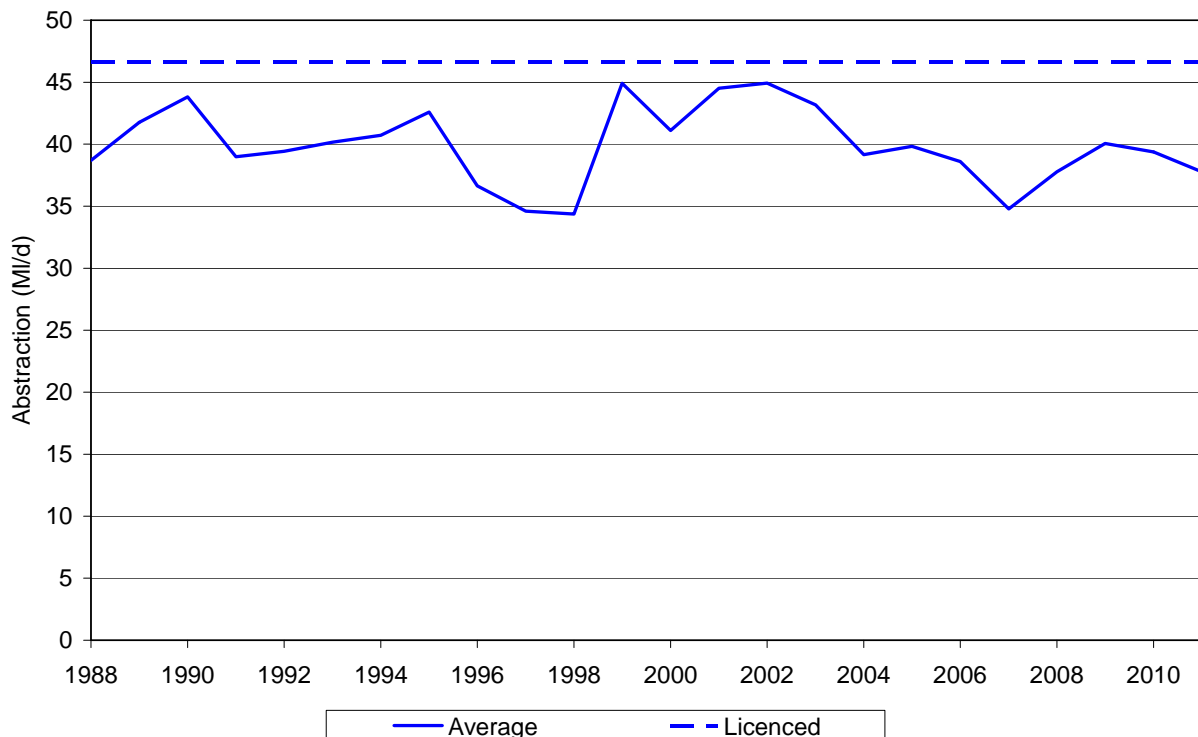
Annual Licence (m ³)	Existing Daily Average Licence (MI/d)	Existing Daily Peak Licence (MI/d)	Actual Average Daily (MI/d)
17 000 000	46.6	57.7	39.5

SOURCE: Environment Agency Abstraction Licence Database and Anglian Water

The total annual quantity of water licensed for surface water abstraction from the Wensum hydrometric catchment represents an average of 50 MI/d. Comparison with Table 2.1 shows that the existing average daily licensed abstraction at Costessey (46.6 MI/d) represents approximately 93% of the total quantity licensed for surface water abstraction in the River Wensum catchment; the balance is made up of a number of smaller abstractions. Table 2.1 also shows that the actual abstraction is lower than the licensed daily average, by a margin of about 15% (this is based on data for the period 2002-11). However, this apparent scope for increased abstraction is not significant in practice because AWS report that the peak daily licence provides the constraint at Costessey.

The actual abstraction data (Figure 2.1) shows only minor variation in annual abstraction since the Costessey intake was first used in 1988, with the average ranging from about 34 to 45 MI/d. The maximum annual abstraction in the last 8 years is about 40 MI/d.

Figure 2.1: Abstractions from the Wensum at Costessey



Source: Raw data from Anglian Water

2.1.2 Thorpe St Andrew Abstraction

Details of abstraction from boreholes within the Thorpe St Andrew area (Licence No: 7/34/15/*G/0177) are presented in Table 2.2.

Table 2.2: Thorpe St Andrew Abstraction Licence Information

Annual Licence (m ³)	Existing Daily Average Licence (MI/d)	Existing Daily Peak Licence (MI/d)	Actual Average Daily (MI/d)
5 000 000	13.7	22.7	8.4

SOURCE: Environment Agency Abstraction Licence Database and Anglian Water

Table 2.2 shows that the actual average daily abstraction at Thorpe St Andrew is approximately 60% of the average licensed daily amount. Full usage of this headroom would require some additional investment on additional boreholes and pipelines. AWS has planned investment to allow some increased abstraction during future Asset Management Plan (AMP) periods, starting in AMP6 (2015-2020).

The combined average actual abstraction from Costessey and Thorpe St Andrew is about 48 MI/d. There are a few other abstractions but these are very minor by comparison.

2.2 Relevant Reports

2.2.1 Review of Consents

A Stage 3 Appropriate Assessment (EA, 2010) was undertaken for the River Wensum SAC applying targets derived from Natural England's Favourable Condition Tables and Habitats Directive Ecological River Flow (HDERF). The assessment established that "in combination" abstractions presented a high risk to the integrity of European features in the lower reaches of the River Wensum SAC. As such, the SAC in its lower reaches is currently not in a "favourable condition".

In order to restore the SAC to favourable conditions, a Stage 4 Appropriate Assessment was undertaken (EA, August 2010). This involved an appraisal of potential options identified to remove the risk to features in the designated European site.

These options were as follows (reproduced from the EA report):

- Option 1a: Do nothing, hence affirm all licences assessed at stage 3. Take no further action;
- Option 1b: Do Nothing/Affirm all licences subject to Habitats Regulation 50 Review, but use existing Catchment Abstraction Management Strategy (CAMS) licensing policy to reduce abstraction pressure within 3 km radius from Time Limited ('T/L') (i.e. Habitats Regulation 48) licences only by modifying those licences at renewal i.e. rely on Habitats Regulation 51(3) action by the Environment Agency to remove abstraction impact from SAC;
- Option 2: Revoke licence 7/34/11/*S/0399 (Public Water Supply, PWS abstraction licence at Costessey/Heigham);
- Option 3: Modifying licence 7/34/11/*S/0399 (PWS abstraction licence at Costessey/Heigham) to remove adverse effect either by reducing total licensed quantity or by relocation of the surface water intake outside the SAC boundary;
- Option 4: Reduce abstraction impact by modifying licences in combination effect, only;
- Option 5: Reduce abstraction impact by modifying 7/34/11/*S/0399 (PWS abstraction licence at Costessey/Heigham), plus other licences with in combination effect; and
- Option 6; Use the proposed River Wensum Restoration Strategy to mitigate for abstraction related impact.

Option 5 was chosen as the **preferred option**.

'In the first instance, and before 2015, a reduction equivalent to 20 MI/d shall be applied to the total annual licensed quantity to remove the risk to the site in its current condition from fully licensed abstraction' (Environment Agency¹).

The report adds that subsequently there would be further modification to the licence to ensure that required flow standards are met at Hellesdon Mill. The nature of such modification is not detailed, but the required flow standard would be the Habitats Directive Ecological River Flows (HDERF).

Information from the EA RoC suggests that abstractions from Thorpe St Andrew were not included in the list of licenses identified to have an "in combination effect" and scheduled for either revocation or modification. It is therefore concluded that abstractions from Thorpe St Andrew within its licence would not adversely affect the River Wensum SAC. The Thorpe St Andrew source was also reviewed under the RoC for the Broads and Broadland SPA; this RoC identified that changes were required to the Thorpe St Andrew licence. The changes are incorporated in AWS plans and the assessment of the supply/demand balance. The latest AWS position is described in section 2.4.

2.2.2 Statement of common understanding, November, 2010

This statement was jointly agreed by AWS, Natural England and the Environment Agency, and superseded an earlier note published by the Environment Agency². It reflected growing concern that existing licensed levels of abstraction at Costessey were causing an adverse effect on the SAC and set out a joint agreed position to address this.

The proposed reduction in Costessey abstraction of up to 49 MI/d would be achieved progressively over successive business planning cycles as follows:

1. a 20 MI/d reduction by 2015;
2. if required, a further reduction of up to 29 MI/d by 2020 or soon thereafter.

¹ River Wensum SA Site Action Plan Version 5.0 Environment Agency August 2010

² Guidance Note on Growth and Water in Greater Norwich, Environment Agency, August 2010

Given the average and licensed levels of abstraction described in section 2.1.1, the eventual average reduction could not be as great as 49 MI/d because abstractions have never been that high.

AWS agreed to identify its preferred option for the initial reduction by January 2012. It was further agreed that if a solution to deliver a 20MI/d reduction cannot be found then AWS will deliver as much reduction as possible by 2015.

The agreed outcome in the short term was a reduction in the levels of abstraction at Costessey to historic levels, defined as levels of abstraction in 2005. This capping of abstraction would remain until the full RoC was implemented.

Natural England confirmed as part of the statement that this would satisfy their concerns for the interim period.

2.3 Analysis

2.3.1 Costessey Flows

The EA provided a long term flow duration curve, FDC (1960 to 2010) at Costessey Mill gauging station. However, use of this FDC to assess available water resources would be misleading because the abstraction point is upstream of the gauging station. Furthermore, the abstraction point was moved (from downstream of the gauging station) in 1988, so only part of the data used to derive the FDC is representative of current conditions.

In order to address this point, the recorded daily flows for Costessey from 1988 onwards were adjusted by adding actual daily abstraction (data obtained from AWS) to the recorded flows at Costessey Mill gauging station. This is not a fully-naturalised flow because it does not take account of other artificial influences (abstractions and discharges) further upstream. However, such influences are small compared to the Costessey abstraction.

The recorded data is not quite complete – various periods of missing data amount to about two years out of the overall period of 50 years (1961-2010). For these periods' simulated flows from a previous catchment modelling study for AWS were used (with adjustment for abstraction). This reduces the risk of bias in the results if (for example) the missing periods were unusually dry or mostly occurred at a particular time of the year.

Figure 2.2 shows the FDC of part-naturalised flows, “current” flows (based on average abstraction over the past 10 years) and potential flows if the abstraction licence is reduced as proposed in the RoC (this is the first stage reduction, to 20 MI/d below the current annual licence).

Flow duration statistics and the percentage reduction in flows as a result of abstraction at Costessey Mill are presented in Table 2.3. HDERF thresholds for SAC and Site of Special Scientific Interest (SSSI) rivers are presented in Table 2.4.

Figure 2.2: Costessey Mill Flow Duration Curves

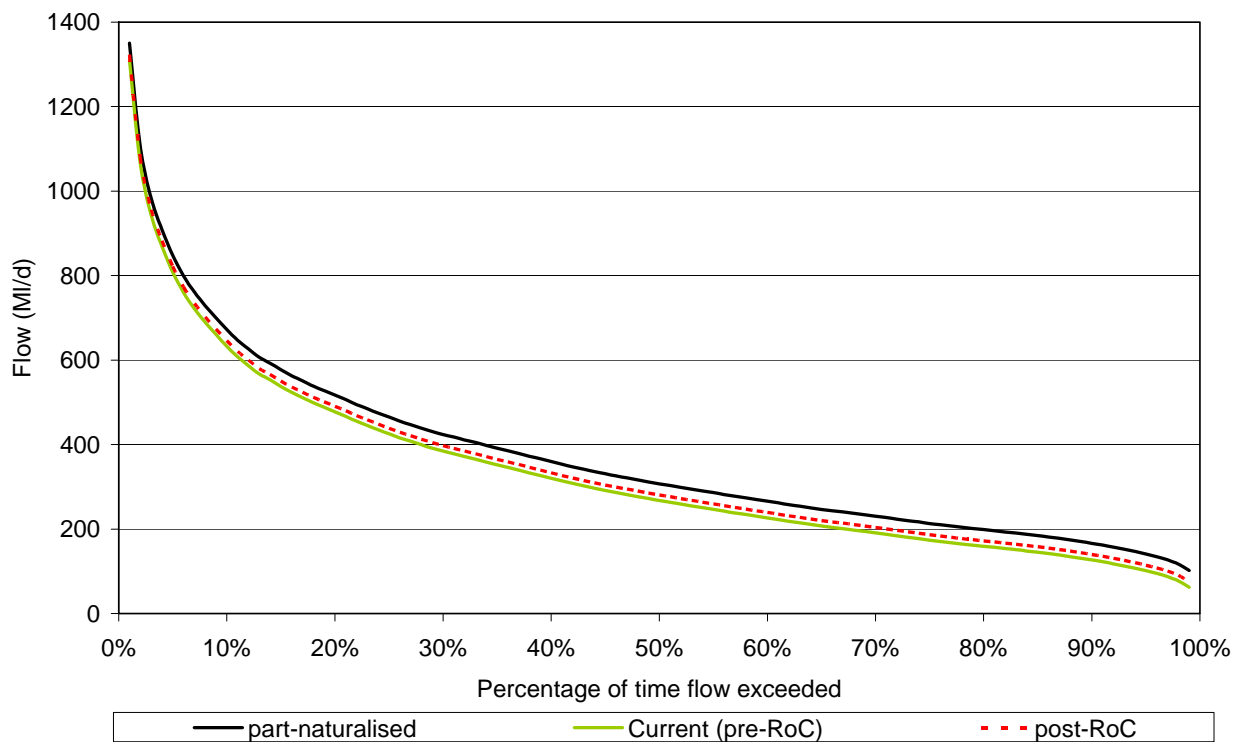


Table 2.3: Costessey Mill Flow Duration Statistics

Percentile	Part-naturalised flow (MI/d)	Expected flow (MI/d) pre-RoC	Expected flow post-RoC	% reduction pre-ROC	% reduction post-ROC
1%	1350	1310	1323	3%	2%
2%	1107	1067	1080	4%	2%
5%	848	809	822	5%	3%
10%	672	633	646	6%	4%
20%	517	478	490	8%	5%
30%	424	384	397	9%	6%
40%	360	320	333	11%	7%
50%	307	267	280	13%	9%
60%	266	226	239	15%	10%
70%	230	191	204	17%	12%
80%	199	159	172	20%	13%
90%	166	127	140	24%	16%
95%	141	101	114	28%	19%
98%	117	77	90	34%	23%
99%	102	62	75	39%	26%

Table 2.4: HDERF Thresholds for SAC/SSSI Rivers

Environmental Weighting Band	HD ERF Maximum Percentage Reduction From Daily Naturalised Flow		
	< Q50	Q50 - Q95	>Q95
High	15%	10%	5 - 10%
Moderate	20%	15%	10 -15%

Table 2.3 shows a reduction of 28% in flows at Q95. This is in excess of the allowable HDERF threshold for SAC rivers assigned an environmental weighting band of high or moderate sensitivity (available information suggests the River Wensum SAC ranges from moderate to high sensitivity. The assessment point at Hellesdon Mill is assigned moderate sensitivity).

Applying the EA RoC to abstractions at Costessey leads to a smaller reduction in naturalised flow (19%), but this is still beyond the maximum allowable limit of a moderately sensitive SAC river. This suggests that there would need to be further reductions in allowable abstractions at Costessey Mill in order to meet HDERF targets (as implied by the comments in the RoC referred to in the penultimate paragraph of section 2.2 above). To meet the maximum 15% reduction at Q95 for moderate sensitivity, the average abstraction would need to be reduced

by a further 5 MI/d. However, it should be stressed that this is based on simplified calculations that do not use a fully-naturalised flow series.

It should be noted that previous EA analysis used estimated flows (from a regional groundwater model) for Hellesdon Mill rather than Costessey, and that the period analysed was 1988-2005. Hellesdon Mill is at the downstream end of the reach of interest; the catchment area is slightly larger (by about 2%), but the EA's work showed that overall there is little change in flow between the two sites. The Wensum SAC quotes naturalised flows for Hellesdon Mill for various points from Q10 to Q99; bearing in mind the different data periods, locations and methods, these agree well with the part-naturalised values in Table 2.3, with differences ranging from -6% to +8%.

2.3.2 Available Water Resource

Fully utilising the Thorpe St Andrew licence (based on Table 2.2) would provide an additional 5.3 MI/d available for abstraction at this point, subject to the required investment at the source and for transmission.

Anglian Water's forecast average occupancy rate for new-build properties is 2.1 people (though recent information from AWS suggests that this may be revised down to 2.04). Current Building Regulations have a water usage standard of 125 l/h/day, but Levels 4 and 5 of the Code for Sustainable Homes indicate reduced figures of 105 and 80 l/h/day respectively. The potential additional abstraction from Thorpe St Andrew could supply from 20000 to 32000 households (Table 2.5). This does not take account of the fact that a proportion of the members of such households would be from the immediate area and therefore already receiving water, possibly from Thorpe St Andrew. This category would include young people currently living with parents, who would hope to move if/when availability of housing improves. The net increase in demand due to 20000 new houses at 125 l/h/d would therefore be less than 5.3 MI/d, but it is difficult to quantify this effect.

Table 2.5: Potential Number of Households Supplied from Thorpe Headroom

Per capita consumption (l/h/d)	Households
125	20000
105	24000
80	32000

2.4 Future Water Requirements for Period up to 2015

Availability and demand data for the period up to 2015 for the Norwich and the Broads Water Resource Zone (WRZ) was provided by AWS and is presented in Table 2.6; information was not available for the Norwich/River Wensum area alone. The information was extracted from the AWS Water Resource Management Plan (WRMP) and is based on the least cost forecast. This shows only minor changes in demand over the period, with an overall increase to 2014/15 of just 1.0%. The availability figures are “Water Available for Use” (WAFU) whilst the demand figure is the distribution input which includes allowance for leakage. The figures include allowance for the effect of planned investments over the period.

Table 2.6: Anglian Water Demand Forecast

Year	2010-11	2011-12	2012-13	2013-14	2014-15
Water Available for Use (WAFU)					
	MI/d	MI/d	MI/d	MI/d	MI/d
Average	78.94	78.83	78.65	78.39	78.09
Peak	109.86	109.71	109.46	109.12	108.71
Demand (Distribution Input)					
	MI/d	MI/d	MI/d	MI/d	MI/d
Average	65.02	64.94	65.03	65.30	65.64
Peak	83.03	82.92	82.94	83.17	83.50

SOURCE: Anglian Water , Water Resource Management Plan

The submitted JCS housing trajectory³ up to 2015 is presented in Table 2.7. The water demand figures are based on the same assumptions as those used for Table 2.5 above.

³ Joint Core Strategy for Broadland Norwich and South Norfolk: Proposed Submission Document November 2009

Table 2.7: Joint Core Strategy Housing Trajectory

Period	Total Planned Completions	Projected Occupancy (Persons)	Total Water Demand (MI/day)		
			<i>per capita consumption (l/h/d)</i>		
			125	105	80
2010/11	1593	3345	0.42	0.35	0.27
2011/12	2075	4358	0.54	0.46	0.35
2012/13	2352	4939	0.62	0.52	0.40
2013/14	1899	3988	0.50	0.42	0.32
2014/15	2439	5122	0.64	0.54	0.41
TOTAL	10358	21752	2.72	2.28	1.74
		Usage of Thorpe St Andrew headroom	51%	43%	33%

As described above, it is important to note that some of the total demand for new houses may be cancelled out by reductions elsewhere.

The AWS demand figures take account of all relevant projections, including population, per capita demand, non-household demand and leakage, and in particular including the JCS housing trajectory. These show that the overall change over the period to 2015 is insignificant. Therefore Anglian Water is in a position to meet demands over this period without the need for any increase in abstraction at Costessey.

However, the agreement of common understanding dated 3 November, 2010 required an immediate cap in abstractions at Costessey to historic levels and this position was confirmed at the public examination into the joint core strategy. This cap represents a decrease in supply of 6 MI/d. AWS reaffirmed its commitment to reducing abstraction in a memo dated 17th November 2010 and has further confirmed this in an email dated 18th May 2012. The memo and the email are reproduced in Appendix B.

The draft Norwich Joint Core Strategy (JCS) document sets out an aim to build approximately 22,500 dwellings between 2010 and 2020. Natural England have advised that any proposals coming forward ahead of the implementation of the RoC solution for the River Wensum SAC should not exacerbate the adverse affect on the Wensum by involving increased abstraction from Costessey.

AWS committed to undertake an assessment into the level of growth that could be accommodated by existing sources over AMP5 with the inclusion of the reduced abstraction at Costessey. The assessment is based on outputs from the AWS Water Resources Management Plan (WRMP) final planning scenario (WRP4) for the Norwich and the

Broads WRZ, February 2010 and is summarised in Table 2.8 below. It includes all relevant sources and not just that at Thorpe St Andrew.

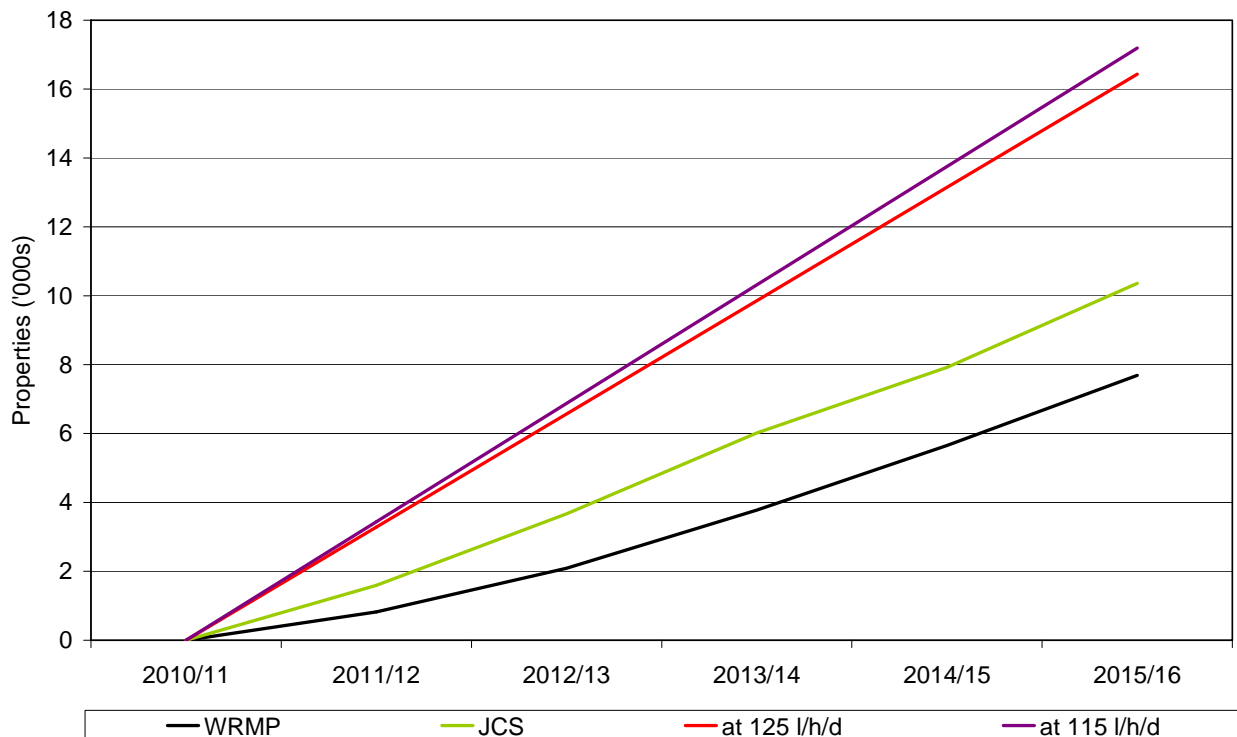
Table 2.8: Norwich & The Broads WRZ Revised Supply/Demand Balance and Build Capacities

Description	Units	2010/11	2011/12	2012/13	2013/14	2014/15
Norwich & The Broads Supply/demand balance (WRMP)	MI/d	10.21	10.11	9.72	9.02	8.22
Revised S/D balance (cap on abstraction from Costessey)	MI/d	4.22	4.12	3.73	3.03	2.23
Additional build capacity at 125 l/h/d	'000s					8.74
Additional build capacity at 115 l/h/d	'000s					9.50
Cumulative new properties included in WRMP	'000s	0.82	2.09	3.78	5.65	7.69
Total build capacity at 125 l/h/d	'000s					16.43
Total build capacity at 115 l/h/d	'000s					17.19

With the revised supply demand balance of 2.23 MI/d, AWS would be able to meet their own previously assumed growth forecast of 7,690 properties and also accommodate an additional 8,740 properties (based on 125l/h/d consumption) or 9,500 properties (based on 115 l/h/d consumption) by 2015. At this level of growth they can maintain service commitments to customers and the supply demand balance remains in surplus.

By annualising the total build capacities that could be supported under the two consumption rates AWS would be able to fully support the property growth forecast in the Joint Core Strategy as shown in Figure 2.3 below.

Figure 2.3: Potentially-supported Properties in Norwich & The Broads



Source: Raw data from AWS

The demand forecast assumes that the population served will increase between 2010 and 2035, having taken into account the current economic downturn and the expected recovery from it. In the WRMP AWS also assumed an overall decline in measured water consumption to 130l/h/d by 2030. These growth forecasts have been scrutinised and accepted by the regulators.

The calculations of potential additional household properties that could be served (i.e. in addition to those included in the WRMP) do not include any consideration of non-household consumption that might be associated with the additional household properties (e.g. additional employment in the area). However, such associated consumption is likely to be small in comparison to household consumption. In the WRMP, AWS forecast that measured non-household consumption in the Norwich and the Broads RZ will decline from 9.6 MI/d to 7.1 MI/d over the period between 2007-08 and 2034-35. Unmeasured non-household consumption is forecast to remain steady at 0.61 MI/d. This

means that non-household consumption is in the region of 10% of total consumption. AWS reports that it currently has no information to suggest that there will be large increases/decreases in non-household demand (Moncaster, 2012).

On the basis of this assessment, the forecast level of growth up to 2015 outlined in the WRMP would be achievable under the revised abstractions from Costessey, and the JCS housing projections could also be supported without increasing the adverse effect on the River Wensum SAC as a consequence of maintaining potable water supplies.

3. Summary and Conclusions

Regulation 61 (6) of the Habitats Regulations requires that in forming an opinion as to whether a proposal could adversely affect the integrity of the European site, consideration must be given the manner in which it is proposed to be carried out, or to any conditions or restrictions that might be applied in order to avoid adverse effect.

There is significant scope to increase abstraction within the existing Thorpe St Andrew licence, from a recent average of 8.4 MI/d to the maximum licensed equivalent of 13.7 MI/d at the Thorpe St Andrew borehole. This would require investment in boreholes and associated infrastructure; Anglian Water has planned investment at Thorpe St Andrew for the AMP6 period (2015-2020). The abstraction has been subject to an appropriate assessment and has been through the Review of Consents process. There is no indication that increased abstraction at Thorpe St Andrew would cause adverse impact on the River Wensum SAC. This was the area specifically referred to in the Scope; however, there is also no indication that there would be any adverse impact on the Broads SAC or Broadland SPA.

The latest supply/demand balance forecasts produced by Anglian Water Services indicate that water resources are sufficient to provide for the levels of growth anticipated in the Joint Core Strategy up to 2015 and immediately beyond, with actual abstraction at Costessey limited to historic levels. It is agreed by all parties that this will prevent the SAC from deteriorating any further as a result of abstraction pressure.

In the longer term, additional resources will need to be made available in succeeding Asset Management Plan periods. Anglian Water Services is already in discussions with the Environment Agency about source development to enable them to reduce abstraction at Costessey without jeopardising their ability to meet demands and have agreed to identify their preferred approach in 2012. The longer term solution may require its own assessment under the Habitats Regulations.

The conclusion of this study is that in the period to 2015, the levels of growth anticipated in the Joint Core Strategy can be provided with potable water without further detriment to any areas protected under the Habitats Regulations.

Growth proposals which prevent or delay implementation of a solution to remove adverse effect on the river Wensum SAC from licensed abstraction would not meet the requirements of the Habitats Regulations and would not be consistent with policy 1 of the JCS.

4. References

Habitats Regulation Assessment: Joint Core Strategy for Broadland, Norwich and South Norfolk, Mott MacDonald February 2010,

Joint Core Strategy for Broadland Norwich and South Norfolk: Proposed Submission Document November 2009 (Appendix 6)

Greater Norwich Development Partnership: Stage 2b Water Cycle Study, Technical Report-Final, Scott Wilson February 2010

Guide to Information from National Abstraction Licensing Database (NALD) Version 2.0 Environment Agency May 2006

River Wensum SAC - Site Action Plan Version 5.0 (redacted) Environment Agency, August 2010

Guidance Note on Growth and Water in Greater Norwich, Environment Agency, August 2010.

Statement of common understanding on water resources. Anglian Water, Environment Agency, Natural England – 3 November 2010

Clarification by Anglian Water Services of their evidence to the public examination into the joint core strategy for Broadland, Norwich and South Norfolk - 17 November 2010

Monaster, Steve (2012). Email to Peter Ede, Mott MacDonald, 27 Jan 2012.

Appendices

Appendix A. Scope for Study _____ 20
Appendix B. Anglian Water Memorandum _____ 21

Appendix A. Scope for Study

The scope of the study in terms of its time horizon is from the present to the beginning of the next Asset Management Plan period in 2015.

The study should look at existing licensed abstraction capacity in the area close to Norwich, and in particular at licensed abstractions at Thorpe St Andrew. In particular it should consider whether fully utilizing the Thorpe St Andrew licensed abstraction to cater for development in the short term, combined with an undertaking by AWS not to increase actual abstraction at Costessey, even within existing licenses, would avoid damage to the River Wensum SAC, and thus comply with the Habitats Regulations.

In doing so, the study should verify that the abstraction currently licensed at Thorpe has been subject to an appropriate assessment and been through the review of consents process and concluded as having no adverse effect on European sites. It should also take into account any relevant requirements of the published review of consents, and any measures included in Anglian Water's Asset Management Plan covering the period to 2015.

The study should include relevant consultation with Natural England, the Environment Agency and Anglian Water Services as well as the client.

The study should quantify any resources identified which may be available for development in terms of megalitres per day, and express this as an equivalent in terms of dwelling equivalents at differing levels of the code for sustainable homes. It should relate these estimates to the published housing trajectory in the submitted Joint Core Strategy and assess the extent of any additional capacity in the period to 2015.

Appendix B. Anglian Water Memorandum

This appendix contains a memorandum provided by Anglian Water to clarify its commitment to reduce abstraction as part of the interim 'agreement of common understanding'. It is followed by the text of an email from Anglian Water that states that AW are still committed to restricting abstraction at Costessey to historic levels until delivery of the interim solution.

to: Iain Page; Helen Ward; Mike Burrell; Sue Bull; Mike Cook; Steve Moncaster
from: Jayne Owen
copy:
our ref: GNDP EIP
your ref: AW
subject: GNDP EIP
date: 17 November 2010

Following Anglian Water's (AW) representation at the Greater Norwich Development Partnership Examination in Public on the 11th November (Matter 8) we feel that our explanation regarding the 20MI/d sustainability reduction on the Wensum and our commitment to reducing abstraction at Costessey to historic levels (6MI/d decrease) as part of the interim 'agreement of common understanding' requires further clarification:

The Environment Agency (EA) as part of its Review of Consents (RoC) under the Habitats Directive identified the River Wensum Special Area for Conservation (SAC) as presently having unfavourable conditions in relation to water quality, abstraction, siltation and physical modifications to the channel. The RoC Stage 3 appropriate assessment identified that the river reach between the Costessey Pits Intake and the limit of the SAC at Hellesdon Mill does not achieve the Habitats Directive Environmental Required Flow (HDERF) and fully licensed AW abstraction at Costessey has adverse effects.

Consequently, the EA identified that a significant reduction in flows, especially in the lower reaches are required for the site to meet its environmental objectives. This includes the need for a reduction in the AW Costessey abstraction of up to 49 million litres per day (MI/d) to be achieved progressively over successive business planning cycles. This would involve an initial 20MI/d reduction in the short term.

We are currently appraising the options available to achieve the initial reduction of 20 MI/d and have committed to outlining our preferred option by January 2012. Until the solution is in place we have agreed to prevent any further deterioration of the River Wensum SAC by restricting the level of abstraction at Costessey to historic levels. This is defined as the annual average abstraction in 2005 which leads to a 6 MI/d reduction in the Norwich and the Broads (NTB) WRZ.

The draft Norwich Joint Core Strategy (JCS) document sets out an aim to build approximately 22,500 households between 2010 and 2020. As part of the consultation process for this strategy Natural England have advised that any proposals coming forward ahead of the adoption of the JCS and the implementation of the RoC solution for the River Wensum SAC should not act to exacerbate the adverse affect on the Wensum by involving increased abstraction from Costessey.

As part of our 'common understanding agreement' with the Environment Agency and Natural England we committed to undertake an assessment into the level of growth that could be accommodated by our existing sources over AMP5 with the inclusion of the reduced abstraction at Costessey to historic levels (2005). Our assessment is based on outputs from our Water Resources Management Plan (WRMP) final planning scenario (WRP4) for the Norwich and the Broads WRZ, February 2010 and is summarised below:

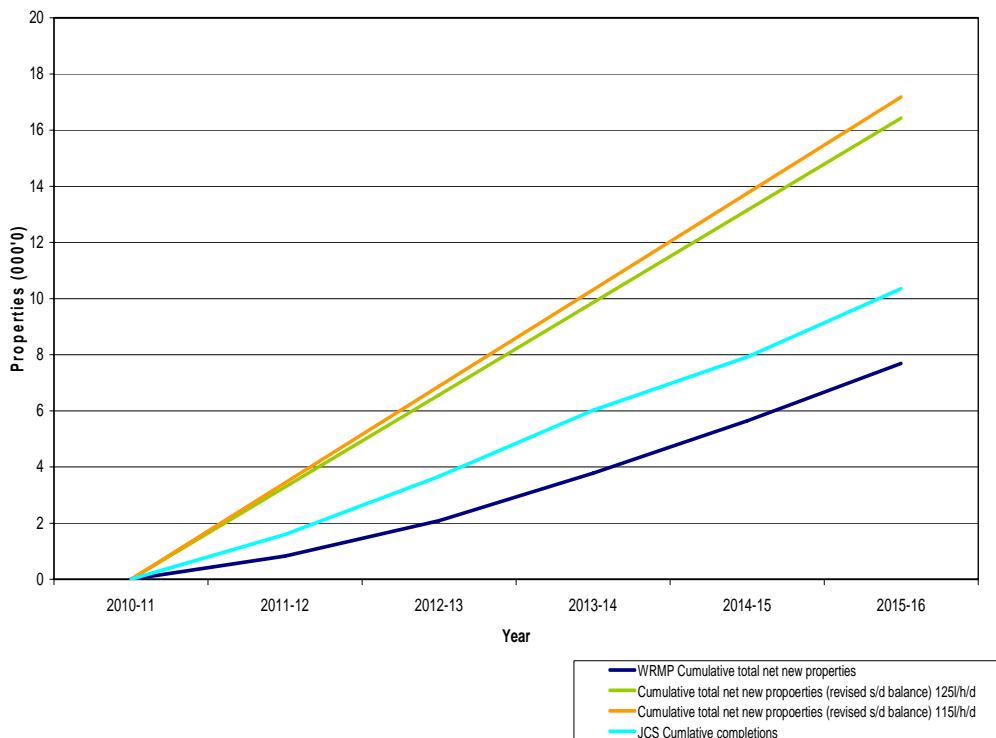
Description	Units	2010/11	2011/12	2012/13	2013/14	2014/15
Norwich & The Broads (NTB) WRMP supply demand balance	MI/d	10.21	10.11	9.72	9.02	8.22
Revised supply demand balance (capped abstraction from Costessey)	MI/d	4.22	4.12	3.73	3.03	2.23
Cumulative new Properties included in WRMP (WRP table 4)	000's	0.82	2.09	3.78	5.65	7.69
Additional build capacity at 125 l/h/d (using the revised supply demand surplus)						8.74
Additional build capacity at 115 l/h/d (using the revised supply demand surplus)						9.50
Total build capacity at 125 l/h/d (including WRP forecast)	000's					16.43
Total build capacity at 115 l/h/d (including WRP forecast)	000's					17.19

Norwich and The Broads WRZ revised supply demand balance and build capacities

With the revised supply demand balance of 2.23 MI/d we would be able to meet our growth forecasts of 7,690 properties and also accommodate an additional 8,740 properties (based on 125l/h/d consumption) or 9,500 properties (based on 115 l/h/d consumption) by 2015. At this level of growth we are able to maintain our levels of service commitments to our customers and our supply demand balance remains in surplus.

By annualising the total build capacities that could be supported under the two consumption rates we would be able to fully support the property growth forecast in the Joint core strategy as shown in the graph below.

Properties that could be supported up to 2015 in the Norwich and the Broads WRZ with abstractions reduced to 86% from Costessey



Our demand forecast assumes that the population served will increase between 2010 and 2035, having taken into account the current economic downturn and the expected recovery from it. In our WRMP we also assumed an overall decline in measured water consumption to 130l/h/d by 2030. These growth forecasts have been scrutinised and accepted by our regulators.

On the basis of this assessment, the forecast level of growth outlined in our WRMP would be achievable under the revised abstractions from Costessey and we are confident that the JCS housing projections could also be supported.

From: Bull Sue [mailto:sBull@anglianwater.co.uk]
Sent: 18 May 2012 17:16
To: Roger Burroughs
Subject: FW: JCS HRA Addendum

Dear Roger

The response from Jessica Bowden (EA) appears to raise two issues:

1. Whether or not AW are still committed to the terms of the Joint Position Statement issued in November 2010. In particular that we will restrict abstraction to historic levels pending delivery of the interim solution to deliver a 20 MI/d sustainability reduction by 2015
2. That we are putting into place arrangements for achieving a 20 MI/d reduction in abstraction at Costessey by 2015.

AW are still committed to restricting abstraction at Costessey to historic levels until delivery of our interim solution. This solution (a temporary transfer of abstraction from Costessey to Heigham) is in the process of being delivered and details are given in the report that we have recently issued to the EA.

I hope this helps to clarify.

Regards

Sue Bull
Planning Liaison Manager
Anglian Water
Asset Management
Thorpewood House
Thorpewood
Peterborough, PE3 6WT
t: 01733 414605 m: 07885 135312